

STATE GOVERNMENT

CHAPTER 456

HOUSE BILL NO. 1123

(Government and Veterans Affairs Committee)
(At the request of the Industrial Commission)

AN ACT to amend and reenact section 54-01-27 of the North Dakota Century Code, relating to the approval of state leases by the industrial commission.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 54-01-27 of the North Dakota Century Code is amended and reenacted as follows:

54-01-27. Lease of state-owned property. Notwithstanding any other provision of law, the state, or any agency or institution of the state, may enter agreements to lease all or part of, or an undivided or other interest in, any real or personal property belonging to the state, or any agency or institution of the state, to and, or, from any agency or institution of the state or any person for such compensation and upon such terms and conditions as the parties under such agreement may stipulate. Such agreements must be authorized by the board, if any, or commissioner or other executive officer of the commission, agency, or institution holding, controlling, possessing, or owning the property or on whose behalf the property is held; ~~and must be approved by the industrial commission.~~ For purposes of this section, the agreements include any lease, sublease, purchase agreement, lease-purchase agreement, installment purchase agreement, leaseback agreement, or other contract, agreement, instrument, or arrangement pursuant to which any rights, interests, or other property are transferred to, by, or from any party to, by, or from one or more parties, and any related documents entered or to be entered, including any operating agreement, service agreement, indemnity agreement, participation agreement, loan agreement, or payment undertaking agreement entered as part of a long-term lease and leaseback transaction. A lease obligation under this section may not exceed a term of ninety-nine years. A lease obligation entered into under this section is payable solely from revenues to be derived by the state, or any agency or institution of the state, from the ownership, sale, lease, disposition, and operation of the property; any funds or investments permitted under state law, and any earnings thereon, to the extent pledged therefor; revenues to be derived by the state, or any agency or institution of the state, from any support and operating agreement, service agreement, or any other agreement relating to the property; funds, if any, appropriated annually by the legislative assembly or received from federal sources; and income or proceeds from any collateral pledged or provided therefor. A lease obligation under this section does not constitute an indebtedness of the state, or any agency or institution of the state, or a pledge of the full faith and credit or unlimited taxing resources of the state, or any agency or institution of the state. Notwithstanding any other law, the state, or any agency or institution of the state, may solicit and accept one or more proposals for a lease transaction, including the arrangement thereof, under this section, and accept any proposal that is determined to be in the public interest. The public finance authority, on behalf of the state, or any agency or institution of the state, may do and perform

any acts and things authorized by this section, including making, entering, and enforcing all contracts or agreements necessary, convenient, or desirable for the purposes of this section.

Approved April 8, 2009

Filed April 9, 2009

CHAPTER 457**HOUSE BILL NO. 1178**

(Representative DeKrey)

AN ACT to amend and reenact section 54-03-26 of the North Dakota Century Code, relating to the purchase of personal computers by members of the legislative assembly.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹⁷⁵ **SECTION 1. AMENDMENT.** Section 54-03-26 of the North Dakota Century Code is amended and reenacted as follows:

54-03-26. Personal computers and associated software used by legislators - Fee - Continuing appropriation.

1. Notwithstanding any other provision of law, a member of the legislative assembly who is assigned a computer may use that computer and its associated equipment and software for any use that is not in violation of section 16.1-10-02 upon payment of a computer usage fee established by the legislative council.
2. The legislative council may establish a policy under which a member of the legislative assembly who has paid a computer usage fee under subsection 1 may purchase the computer used by that member for the appraised or market value of the computer upon the replacement of the computer by the legislative council.
3. Any funds received by the legislative council through the sale of a computer under subsection 2 must be deposited in the legislative services fund in the state treasury.

Approved April 16, 2009
Filed April 17, 2009

¹⁷⁵ Section 54-03-26 was also amended by section 41 of House Bill No. 1436, chapter 482.

CHAPTER 458**HOUSE BILL NO. 1030**

(Legislative Council)

(Employee Benefits Programs Committee)

AN ACT to amend and reenact section 54-06-30 of the North Dakota Century Code, relating to the state employee performance bonus program.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 54-06-30 of the North Dakota Century Code is amended and reenacted as follows:

54-06-30. State employee performance bonus program - Criteria - Limitations. State agencies may provide monetary performance bonuses to their employees under this section.

1. State agencies may pay bonuses under this section if:
 - a. The agency has had a written employee performance evaluation policy in place for more than one year before paying the bonus;
 - b. The written employee performance evaluation policy required in subdivision a must have at least three levels of performance criteria; and
 - c. The agency performance bonus program adopted under this section must be a written policy and must be communicated to each employee in the agency. Development of the written policy must include input from employees.
2. State employees are eligible to receive a bonus under this section only if:
 - a. The employee has held a position in state government for at least one year before a bonus is paid;
 - b. The employee's overall annual performance evaluation satisfies the agency's performance bonus program criteria for receiving a bonus; and
 - c. The employee is a full-time or part-time regular nonprobationary employee holding a regularly funded nontemporary position.
3. An employee may not receive more than one performance bonus per fiscal year and may not receive more than one thousand dollars in bonuses per ~~biennium~~ fiscal year.
4. ~~Agencies~~ Except as provided in this subsection, agencies may pay bonuses under this section during a fiscal year to not more than the number of employees equal to twenty-five percent of the employees employed by the agency on July first at the beginning of each state

fiscal year. Upon a showing of special circumstances, North Dakota human resource management services may approve pay bonuses above the twenty-five percent limitation in this subsection. North Dakota human resource management services shall report any exceptions granted under this subsection to the budget section of the legislative council. Each agency must fund the performance bonus program from within its agency budget for salaries and wages.

5. Bonuses paid under this section may not be included in an employee's base salary for purposes of calculating any wage or salary increase.
6. Bonuses paid under this section are not fiscal irregularities under section 54-14-03.1.

Approved March 19, 2009
Filed March 24, 2009

CHAPTER 459**HOUSE BILL NO. 1031**

(Legislative Council)

(Employee Benefits Programs Committee)

AN ACT to amend and reenact section 54-06-31 of the North Dakota Century Code, relating to state recruitment and retention bonus programs.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹⁷⁶ **SECTION 1. AMENDMENT.** Section 54-06-31 of the North Dakota Century Code is amended and reenacted as follows:

54-06-31. State employee recruitment and retention bonus programs - Criteria - Limitations. State agencies may develop programs to provide bonuses to recruit or retain employees in hard-to-fill occupations.

1. State agencies may pay recruitment and retention bonuses under this section only if:
 - a. The agency has a written policy in place identifying eligible positions or occupations and provisions for providing and receiving bonuses;
 - b. The agency has filed a copy of the written policy with the North Dakota human resource management services; and
 - c. The agency reports to the North Dakota human resource management services each bonus provided to an employee under the program.
2. State agencies must fund bonus programs from within the agency salaries and wages budget.
3. The North Dakota human resource management services shall periodically report to a legislative committee designated by the legislative council on the implementation, progress, and bonuses provided under agency recruitment and retention bonus programs.
4. Bonuses paid under this section are not fiscal irregularities under section 54-14-03.1.
5. As used in this section, a hard-to-fill occupation includes an occupation or position in which demand exceeds supply, special qualifications are required, competition with other employers is the strongest, there is a risk of losing an incumbent with rare skills, the position is filled by a highly skilled employee who is in high demand in the marketplace, loss

¹⁷⁶ Section 54-06-31 was also amended by section 47 of House Bill No. 1436, chapter 482.

of the employee would result in significant replacement costs, the position is filled by key personnel, or the position has other unique recruitment or retention issues identified and documented by the appointing authority.

Approved March 5, 2009
Filed March 5, 2009

CHAPTER 460**HOUSE BILL NO. 1029**

(Legislative Council)

(Employee Benefits Programs Committee)

AN ACT to create and enact four new sections to chapter 54-06 of the North Dakota Century Code, relating to state employee service awards, employer-paid tuition, and employer-paid professional organization membership and service club dues.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 54-06 of the North Dakota Century Code is created and enacted as follows:

State employee service awards. Each state agency, department, or institution may establish rules or policies for employee recognition and service award programs. Executive branch agencies having employees in classified service are subject to rules adopted by North Dakota human resource management services and approved by the state personnel board and the legislative council's administrative rules committee. Any other agency, department, or institution of the executive, legislative, or judicial branch may adopt similar rules or policies to ensure uniformity and consistency in state government. Notwithstanding any other provision of law, each executive branch state agency, department, or institution, except an institution of higher education, having employees who are not in classified service and establishing rules or policies for employee recognition and service award programs shall submit the rules and policies to the office of management and budget for review and comment, and after addressing any comments of the office of management and budget, shall submit the rules and policies to the legislative council's administrative rules committee for approval. Within sixty days after the close of each biennial period, each state agency, department, or institution providing an employee service award under rules approved by the administrative rules committee shall file with the office of management and budget a report indicating the individuals receiving a service award, the amount paid, and a statement of the public purpose or benefit of the expenditures. Within ninety days after the close of each biennial period, the office of management and budget shall submit to the legislative council a report summarizing this information. An expenditure made under this section is deemed to be made for a public purpose and may not be construed as a gift for purposes of section 18 of article X of the Constitution of North Dakota.

SECTION 2. A new section to chapter 54-06 of the North Dakota Century Code is created and enacted as follows:

Employer-paid tuition. Each state agency, department, or institution may establish rules or policies to provide employer-paid costs of training or educational courses, including tuition and fees, within budgetary constraints. Executive branch agencies having employees in classified service are subject to rules adopted by North Dakota human resource management services and approved by the state personnel board and the legislative council's administrative rules committee. Any other state agency, department, or institution of the executive, legislative, or judicial branch may adopt rules or policies to ensure uniformity and consistency in state government. Notwithstanding any other provision of law, each executive branch

state agency, department, or institution, except an institution of higher education, having employees who are not in classified service and establishing rules or policies for employer-paid costs of training or educational courses, including tuition and fees, shall submit the rules and policies to the office of management and budget for review and comment, and after addressing any comments of the office of management and budget, shall submit the rules and policies to the legislative council's administrative rules committee for approval. Within sixty days after the close of each biennial period, each state agency, department, or institution providing employer-paid costs of training or educational courses, including tuition and fees, under rules approved by the administrative rules committee, shall file with the office of management and budget a report indicating the individuals receiving employer-paid costs of training or educational courses, including tuition and fees; the amount paid; and a statement of the public purpose or benefit of the expenditure. Within ninety days after the close of each biennial period, the office of management and budget shall submit to the legislative council a report summarizing this information. An employee who receives employer-paid tuition reported under this section who leaves employment with that employer within two years of receiving the tuition must repay tuition received under this section on a prorated basis. An expenditure for employer-paid training or educational courses, including tuition and fees, under this section is deemed to be made for a public purpose and may not be construed as a gift for purposes of section 18 of article X of the Constitution of North Dakota.

SECTION 3. A new section to chapter 54-06 of the North Dakota Century Code is created and enacted as follows:

Employer-paid professional organization membership and service club dues. Each state agency, department, or institution may pay employee membership dues for professional organizations and membership dues for service clubs when required to do business or if the membership is primarily for the benefit of the state. Within sixty days after the close of each biennial period, each executive branch state agency, department, or institution, except an institution of higher education, providing employer-paid professional organization membership and service club dues shall file with the office of management and budget a report indicating the individuals receiving employer-paid professional organization membership and service club dues, the amount paid, and a statement of the public purpose or benefit of the expenditure. Within ninety days after the close of each biennial period, the office of management and budget shall submit to the legislative council a report summarizing this information. An expenditure made under this section is deemed to be made for a public purpose and may not be construed as a gift for purposes of section 18 of article X of the Constitution of North Dakota.

SECTION 4. A new section to chapter 54-06 of the North Dakota Century Code is created and enacted as follows:

Expenditure made pursuant to rule or policy. An expenditure made pursuant to a rule or policy adopted pursuant to sections 1 through 3 of this Act is not a criminal offense.

Approved April 21, 2009
Filed April 22, 2009

CHAPTER 461**HOUSE BILL NO. 1463**

(Representatives Wolf, Clark, Myxter)
(Senators Flakoll, Robinson, Seymour)

AN ACT to create and enact four new sections to chapter 54-07 of the North Dakota Century Code, relating to the creation of a state youth council; to provide for a report to the legislative council; and to provide an expiration date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 54-07 of the North Dakota Century Code is created and enacted as follows:

North Dakota youth council - Creation.

1. The North Dakota youth council consists of:
 - a. Sixteen individuals appointed by the governor;
 - b. One member of the legislative assembly appointed by the majority leader of the house of representatives;
 - c. One member of the legislative assembly appointed by the minority leader of the house of representatives;
 - d. One member of the legislative assembly appointed by the majority leader of the senate;
 - e. One member of the legislative assembly appointed by the minority leader of the senate; and
 - f. The lieutenant governor, who shall serve as the chairman.
2. At the time of appointment, the individuals appointed by the governor must:
 - a. Be at least seventeen years of age but may not have reached the age of twenty-five;
 - b. Be residents of this state; and
 - c. Include representation from:
 - (1) Diverse social, economic, and ethnic groups;
 - (2) Rural and urban areas; and
 - (3) Each of the areas designated by the governor's executive order 1978-12, dated October 5, 1978.

SECTION 2. A new section to chapter 54-07 of the North Dakota Century Code is created and enacted as follows:

Youth council chairman - Meetings. The North Dakota youth council shall meet twice each year, at the call of the chairman. The meetings may be conducted using audioconferencing or videoconferencing facilities available in state agencies, institutions of higher education, school districts, or other political subdivisions.

SECTION 3. A new section to chapter 54-07 of the North Dakota Century Code is created and enacted as follows:

Youth council powers. The North Dakota youth council may accept gifts, grants, and donations of money, property, and services to carry out this Act. The council may form subcommittees to explore its various issues and concerns and complete its duties as set forth in section 4 of this Act. The subcommittees may hold regional meetings in any of the areas designated by the governor's executive order 1978-12 dated October 5, 1978.

SECTION 4. A new section to chapter 54-07 of the North Dakota Century Code is created and enacted as follows:

Youth council duties. The North Dakota youth council shall develop a list of issues and concerns pertinent to residents of this state who have not yet reached the age of twenty-five. The list may include education, health care, employment opportunities, and quality of life issues such as recreation and entertainment. The council, on its own and in conjunction with any guests it elects to invite, shall explore its issues and concerns, review current situations, and develop recommendations for consideration by local, regional, and state-level policymakers. The council shall provide a report and any recommendations to the legislative council before September 1, 2010.

SECTION 5. EXPIRATION DATE. This Act is effective through June 30, 2011, and after that date is ineffective.

Approved April 21, 2009
Filed April 22, 2009

CHAPTER 462**SENATE BILL NO. 2392**

(Senators Miller, Krebsbach)

AN ACT to amend and reenact section 41-09-96, subsection 1 of section 43-07-10, subdivision e of subsection 1 of section 54-05.1-03, and sections 54-09-04 and 54-09-08 of the North Dakota Century Code, relating to secured transaction filing fees, contractor license renewals, lobbyist registration fees, and fees collected by the secretary of state.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 41-09-96 of the North Dakota Century Code is amended and reenacted as follows:

41-09-96. (9-525) Fees.

1. The fee for filing and indexing an original statement under this title, fifteen dollars plus one dollar per additional page. When a nonstandard statement is presented for filing, an additional fee of five dollars must be paid. An additional fee may not be charged for the same statement to gain protection under the central notice system.
2. The fee for filing and indexing an amendment, including continuations, assignments, releases, or correction statements under this title, ten dollars plus one dollar per additional page. An additional fee may not be charged for the same document to gain protection under the central notice system.
3. A fee may not be charged for responding to a request for information from the filing office communicating whether there is on file any financing statement or verified statement naming a particular debtor.
4. The fee for a filing office providing information on specific filings on a particular debtor is seven dollars per debtor for the first five entries, plus two dollars for each additional five entries or fraction thereafter.
5. The fee for a filing office providing copies of each filing for a particular debtor is seven dollars per debtor plus two dollars per page for each page over three pages.
6. The fee for a filing office providing certified copies of filings on a particular debtor is ~~seven~~ ten dollars plus ~~one dollar~~ two dollars per page for attachments.
7. ~~For furnishing copies only of a filed instrument, one dollar per printed page.~~
8. Any fees collected by the secretary of state pursuant to this chapter must be deposited in the general fund in the state treasury, except the fees collected under subsection 6 of section 41-09-94, must be deposited in the secretary of state's general services operating fund.

SECTION 2. AMENDMENT. Subsection 1 of section 43-07-10 of the North Dakota Century Code is amended and reenacted as follows:

1. Any license issued under this chapter may be renewed for each successive fiscal year by obtaining from the registrar a certificate of renewal. To obtain a certificate of renewal, the licensee shall file with the registrar an application, ~~which that~~ includes a listing of each project, contract, or subcontract completed by the licensee during the preceding calendar year in this state over the amount of twenty-five thousand dollars; and the nature of the work of each project, contract, or subcontract; ~~and, if a performance bond was required, the name and address of the person who issued the bond.~~ The registrar shall within a reasonable time forward a copy of the list to the state tax commissioner. The applicant shall include with the application a copy of a certificate of liability insurance unless the registrar has a current valid certificate of insurance on file, and a certification that the applicant has submitted all payroll taxes, including North Dakota income tax, workforce safety and insurance premiums, and unemployment insurance premiums due at the time of renewal, which documents need not be notarized.

SECTION 3. AMENDMENT. Subdivision e of subsection 1 of section 54-05.1-03 of the North Dakota Century Code is amended and reenacted as follows:

- e. The secretary of state shall charge a fee of twenty-five dollars for registering each lobbyist and the first person represented by the lobbyist and an additional fee of ~~five~~ fifteen dollars for each subsequent person represented by the lobbyist.

SECTION 4. AMENDMENT. Section 54-09-04 of the North Dakota Century Code is amended and reenacted as follows:

54-09-04. Fees. The secretary of state, unless otherwise provided by law, shall charge and collect the following fees:

1. For a copy of any law, resolution, record, or other document or paper on file in the secretary of state's office, ~~one dollar for every four pages or fraction thereof~~ fifty cents per page.
2. For affixing the signature of the secretary of state, certificate, or seal, or combination thereof to any document, ten dollars.
3. For filing a certificate of appointment of attorney, five dollars.
4. For searching records and archives of the state, five dollars. For the purposes of this section, a search of records conducted by the secretary of state for which a fee must be collected includes the following:
 - a. A search of a filed document that is active or archived, an archived index, or an index of business name changes to identify specific information to satisfy a request;
 - b. A search of any record for which written verification of the facts of the search is required; and
 - c. For every search of records when the request for the search is contained in a list compiled by the requester.

The secretary of state may provide, at no charge, information from publications or reference materials published or maintained by the secretary of state and verbal confirmation of any element of information maintained in a computer data base.

5. For filing any paper not otherwise provided for, ten dollars.
 6. For filing utility property transfers, five dollars, and issuing a certificate of filing, five dollars.
 7. ~~For sending a copy of a document by electronic transmission, one dollar for each page.~~
 8. For filing any process, notice, or demand for service, the fee provided in section 10-01.1-03.
9. 8. For preparing any listing or compilation of any information recorded or filed in the office of the secretary of state, thirty-five dollars plus the actual cost for assembling and providing the information on the medium requested.

An individual required to file an oath of office with the secretary of state may not be charged for filing the oath of office, nor may a state or county officer be charged for filing any document with the secretary of state when acting in the officer's official capacity. All fees when collected must be paid by the secretary of state into the state treasury at the end of each month and placed to the credit of the state. Unless otherwise provided by law, the secretary of state shall retain a handling charge from filing fees tendered when a document submitted to the secretary of state under any law is rejected and not perfected. The handling charge is five dollars or fifty percent of the filing fee, whichever is greater, but may not exceed one hundred dollars.

If, upon due presentment, any check, draft, money order, or other form of lawful payment provisionally accepted in payment of any filing fee authorized to be charged and collected by the secretary of state, is not honored or paid, or if no lawful form of payment accompanies the filing, any record of credit or payment must be canceled or reversed as though no credit had been given or payment attempted and the filing or action is void. The secretary of state may return to the last-known address of the filer any record or document that was attempted to be filed or may retain as unfiled the record or document for a reasonable time to permit proper payment and filing.

This section does not apply to fees submitted for filing in, or information obtained from, the computerized central notice system, to the computerized Uniform Commercial Code central filing data base, or to the computerized statutory liens data base.

SECTION 5. AMENDMENT. Section 54-09-08 of the North Dakota Century Code is amended and reenacted as follows:

54-09-08. Secretary of state's general services operating fund. The secretary of state's general services operating fund is a special fund in the state treasury. Moneys in the fund are to be used pursuant to legislative appropriations for the provision of services under section 16.1-02-15, subsection 6 of section 41-09-94, subsection 9 8 of section 54-09-04, and sections 10-35-33, 54-09-10, and 54-09-11. At the close of each biennium, the secretary of state shall transfer any unobligated

balance remaining in the fund exceeding seventy-five thousand dollars to the general fund.

Approved March 19, 2009

Filed March 19, 2009

CHAPTER 463**HOUSE BILL NO. 1129**

(Political Subdivisions Committee)
(At the request of the State Auditor)

AN ACT to amend and reenact sections 54-10-14 and 54-10-19 of the North Dakota Century Code, relating to audits of political subdivisions; to repeal section 54-10-18 of the North Dakota Century Code, relating to records and fiscal affairs of counties; to provide for a legislative council study; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹⁷⁷ **SECTION 1. AMENDMENT.** Section 54-10-14 of the North Dakota Century Code is amended and reenacted as follows:

54-10-14. Political subdivisions - Audits - Fees - Alternative audits and reports. The state auditor shall audit the following political subdivisions once every two years, except as provided in this section or otherwise by law:

1. Counties.
2. Cities.
3. Park districts.
4. School districts.
5. Firefighters relief associations.
6. Airport authorities.
7. Public libraries.
8. Water resource districts.
9. Garrison Diversion Conservancy District.
10. Rural fire protection districts.
11. Special education districts.
12. Area career and technology centers.
13. Correction centers.
14. Recreation service districts.

¹⁷⁷ Section 54-10-14 was also amended by section 1 of Senate Bill No. 2295, chapter 464.

15. Weed boards.
16. Irrigation districts.
17. Rural ambulance service districts.
18. Southwest water authority.
19. Regional planning councils.
20. Soil conservation districts.

The state auditor shall charge the political subdivision an amount equal to the fair value of the audit and any other services rendered. The fees must be deposited in the state auditor operating account. The state treasurer shall credit the state auditor operating account with the amount of interest earnings attributable to the deposits in that account. Expenses relating to political subdivision audits must be paid from the state auditor operating account, within the limits of legislative appropriation.

In lieu of conducting an audit every two years, the state auditor may require annual reports from school districts with less than one hundred enrolled students; cities with less than ~~three~~ five hundred population; park districts and soil conservation districts with less than two hundred thousand dollars of annual receipts; and other political subdivisions subject to this section, or otherwise provided by law, with less than one hundred thousand dollars of annual receipts, excluding any federal funds passed through the political subdivision to another entity. If any federal agency performs or requires an audit of a political subdivision that receives federal funds to pass through to another entity, the political subdivision shall provide a copy to the state auditor upon request by the state auditor. The reports must contain the financial information required by the state auditor. The state auditor also may make any additional examination or audit determined necessary in addition to the annual report. When a report is not filed, the state auditor may charge the political subdivision an amount equal to the fair value of the additional examination or audit and any other services rendered. The state auditor may charge a political subdivision a fee not to exceed ~~forty~~ fifty eighty dollars an hour for the costs of reviewing the annual report.

A political subdivision, at the option of its governing body, may be audited by a certified public accountant or licensed public accountant rather than by the state auditor. The public accountant shall comply with generally accepted government auditing standards for audits of political subdivisions. The report must be in the form and content required by the state auditor. The number of copies of the audit report requested by the state auditor must be filed with the state auditor when the public accountant delivers the audit report to the political subdivision. The state auditor shall review the audit report to determine if the report is in the required form and has the required content, and if the audit meets generally accepted government auditing standards. The state auditor also may periodically review the public accountant's workpapers to determine if the audit meets generally accepted government auditing standards. If the report is in the required form and has the required content, and the report and workpapers comply with generally accepted government auditing standards, the state auditor shall accept the audit report. The state auditor may charge the political subdivision a fee of up to ~~forty~~ fifty eighty dollars an hour, but not to exceed five hundred dollars per review, for the related costs of reviewing the audit report and workpapers.

A political subdivision may not pay a public accountant for an audit until the state auditor has accepted the audit. However, a political subdivision may make progress payments to the public accountant. A political subdivision shall retain twenty percent of any progress payment until the audit report is accepted by the state auditor.

The state auditor may require the correction of any irregularities, objectionable accounting procedures, or illegal actions on the part of the governing board, officers, or employees of the political subdivision disclosed by the audit report or workpapers, and failure to make the corrections ~~shall~~ must result in audits being resumed by the state auditor until the irregularities, objectionable accounting procedures, or illegal actions are corrected.

SECTION 2. AMENDMENT. Section 54-10-19 of the North Dakota Century Code is amended and reenacted as follows:

54-10-19. Supervision of books and accounts of public institutions and private institutions with which state has dealings. ~~The state auditor shall assume and exercise supervision over the books and financial accounts of the several public offices and institutions which the state auditor is authorized to examine.~~ The state auditor may examine the books and accounts of all private institutions with which the state has any dealings so far only as the same relate to such dealings. If any public officer having control of any such office or institutions fails or refuses to comply with the directions of the state auditor, the auditor shall report the facts to the governor and to the manager of the state bonding fund, and such refusal constitutes grounds for removal from office and cancellation of the bond of such officer.

SECTION 3. REPEAL. Section 54-10-18 of the North Dakota Century Code is repealed.

SECTION 4. LEGISLATIVE COUNCIL STUDY - AUDITS OF POLITICAL SUBDIVISIONS. During the 2009-10 interim, the legislative council shall study the structure and requirements of the state auditor's office necessary to carry out its auditing of political subdivisions, as required by law, including how such audits should be adequately self-funded. The legislative council shall report its findings and recommendations, together with any legislation necessary to implement the recommendations, to the sixty-second legislative assembly.

SECTION 5. EMERGENCY. This Act is declared to be an emergency measure.

Approved April 24, 2009
Filed April 29, 2009

CHAPTER 464**SENATE BILL NO. 2295**

(Senators Anderson, Lindaas, Olafson)
(Representatives Frantsvog, Holman, S. Meyer)

AN ACT to amend and reenact section 54-10-14 of the North Dakota Century Code, relating to exceptions for small cities from political subdivision audit requirements.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹⁷⁸ **SECTION 1. AMENDMENT.** Section 54-10-14 of the North Dakota Century Code is amended and reenacted as follows:

54-10-14. Political subdivisions - Audits - Fees - Alternative audits and reports. The state auditor shall audit the following political subdivisions once every two years, except as provided in this section or otherwise by law:

1. Counties.
2. Cities.
3. Park districts.
4. School districts.
5. Firefighters relief associations.
6. Airport authorities.
7. Public libraries.
8. Water resource districts.
9. Garrison Diversion Conservancy District.
10. Rural fire protection districts.
11. Special education districts.
12. Area career and technology centers.
13. Correction centers.
14. Recreation service districts.

¹⁷⁸ Section 54-10-14 was also amended by section 1 of House Bill No. 1129, chapter 463.

15. Weed boards.
16. Irrigation districts.
17. Rural ambulance service districts.
18. Southwest water authority.
19. Regional planning councils.
20. Soil conservation districts.

The state auditor shall charge the political subdivision an amount equal to the fair value of the audit and any other services rendered. The fees must be deposited in the state auditor operating account. The state treasurer shall credit the state auditor operating account with the amount of interest earnings attributable to the deposits in that account. Expenses relating to political subdivision audits must be paid from the state auditor operating account, within the limits of legislative appropriation.

In lieu of conducting an audit every two years, the state auditor may require annual reports from school districts with less than one hundred enrolled students; cities with less than ~~three~~ five hundred population; park districts and soil conservation districts with less than two hundred thousand dollars of annual receipts; and other political subdivisions subject to this section, or otherwise provided by law, with less than one hundred thousand dollars of annual receipts, excluding any federal funds passed through the political subdivision to another entity. If any federal agency performs or requires an audit of a political subdivision that receives federal funds to pass through to another entity, the political subdivision shall provide a copy to the state auditor upon request by the state auditor. The reports must contain the financial information required by the state auditor. The state auditor also may make any additional examination or audit determined necessary in addition to the annual report. When a report is not filed, the state auditor may charge the political subdivision an amount equal to the fair value of the additional examination or audit and any other services rendered. The state auditor may charge a political subdivision a fee not to exceed fifty dollars an hour for the costs of reviewing the annual report.

A political subdivision, at the option of its governing body, may be audited by a certified public accountant or licensed public accountant rather than by the state auditor. The public accountant shall comply with generally accepted government auditing standards for audits of political subdivisions. The report must be in the form and content required by the state auditor. The number of copies of the audit report requested by the state auditor must be filed with the state auditor when the public accountant delivers the audit report to the political subdivision. The state auditor shall review the audit report to determine if the report is in the required form and has the required content, and if the audit meets generally accepted government auditing standards. The state auditor also may periodically review the public accountant's workpapers to determine if the audit meets generally accepted government auditing standards. If the report is in the required form and has the required content, and the report and workpapers comply with generally accepted government auditing standards, the state auditor shall accept the audit report. The state auditor may charge the political subdivision a fee of up to fifty dollars an hour, but not to exceed five hundred dollars per review, for the related costs of reviewing the audit report and workpapers.

A political subdivision may not pay a public accountant for an audit until the state auditor has accepted the audit. However, a political subdivision may make progress payments to the public accountant. A political subdivision shall retain twenty percent of any progress payment until the audit report is accepted by the state auditor.

The state auditor may require the correction of any irregularities, objectionable accounting procedures, or illegal actions on the part of the governing board, officers, or employees of the political subdivision disclosed by the audit report or workpapers, and failure to make the corrections shall result in audits being resumed by the state auditor until the irregularities, objectionable accounting procedures, or illegal actions are corrected.

Approved April 21, 2009
Filed April 22, 2009

CHAPTER 465**HOUSE BILL NO. 1148**

(Government and Veterans Affairs Committee)

(At the request of the Supreme Court)

AN ACT to amend and reenact section 54-10-15 of the North Dakota Century Code, relating to audits conducted by the state auditor at the request of the state court administrator.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 54-10-15 of the North Dakota Century Code is amended and reenacted as follows:

54-10-15. Audits of political subdivisions by order of governor or the legislative audit and fiscal review committee, ~~or upon petition, or upon request of the state court administrator.~~ The state auditor, by duly appointed deputy auditors or other authorized agents, shall audit or review the books, records, and financial accounts of any political subdivision when ordered by the governor or the legislative audit and fiscal review committee, requested by the governing board, or upon petition of at least thirty-five percent of the qualified electors of any political subdivision enumerated in section 54-10-14 voting for the office of governor at the preceding general election or, in the case of school districts, upon petition of at least thirty-five percent of the qualified electors voting at the preceding school board election, or upon the request of the state court administrator with respect to clerk of district court services provided by a county in accordance with chapter 27-05.2. Fees for the audits must be paid in accordance with the provisions of section 54-10-14.

Approved April 16, 2009

Filed April 17, 2009

CHAPTER 466**SENATE BILL NO. 2135**

(Government and Veterans Affairs Committee)
(At the request of the State Treasurer)

AN ACT to amend and reenact section 54-11-01 of the North Dakota Century Code, relating to the duties and powers of the state treasurer.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 54-11-01 of the North Dakota Century Code is amended and reenacted as follows:

54-11-01. Duties and powers of state treasurer. The state treasurer shall:

1. ~~Receive~~ Shall receive and safely keep all the public moneys ~~belonging to the state not required to be received and kept by some other person which must be deposited into the state treasury and pay out the same as directed by law.~~
2. ~~Register the orders or certificates of the office of management and budget delivered to the state treasurer when moneys are paid or to be paid into the treasury.~~
3. ~~2.~~ Prepare a receipt ~~Shall collect a record for each deposit of money into the treasury. The receipt record must show the amount, the source from which the money accrued, and the funds into which it is paid. The receipts records must be numbered in order. Duplicates, if requested, must be delivered to the office of management and budget and the person paying money into the treasury.~~
4. ~~3.~~ Pay ~~Shall pay~~ warrants drawn by the office of management and budget and signed by the state auditor and state treasurer out of the funds upon which they are drawn and in the order in which they are presented.
5. ~~4.~~ Keep ~~Shall keep~~ an account of all moneys received and disbursed.
6. ~~5.~~ Keep ~~Shall keep~~ separate accounts of the different funds.
7. ~~6.~~ Keep ~~Shall keep~~ a record of all revenues and expenditures of state agencies and all moneys received and disbursed by the treasurer in accordance with the requirements of the state's central accounting system.
8. ~~7.~~ Receive ~~Shall receive~~ in payment of public dues the warrants drawn by the office of management and budget and signed by the state auditor and state treasurer in conformity with law.
9. ~~8.~~ Redeem ~~Shall redeem~~ warrants drawn by the office of management and budget and signed by the state auditor and state treasurer in conformity with law, if there is money in the treasury appropriated for that purpose.

- 40- ~~9.~~ 9. Report to the office of management and budget on the last day of each month the amount disbursed for the redemption of bonds and Shall maintain a report of the payment of warrants during the month. The report must show:
- a. The date and number of each ~~bond and~~ warrant;
 - b. The fund out of which each was paid; and
 - c. The balance in cash on hand in the treasury to the credit of each fund.
- 44- 10. At the request of either house of the legislative assembly, or of any committee thereof, shall give information in writing as to the condition of the treasury, or upon any subject relating to the duties of office.
- 42- ~~11.~~ 11. ~~Submit~~ Shall submit a biennial report to the governor and the secretary of state in accordance with section 54-06-04. In addition to any requirements established pursuant to section 54-06-04, the report must show the exact balance in the treasury to the credit of the state. The report also must show in detail the receipts and disbursements, together with a summary thereof, the balances in the various funds at the beginning and ending of the biennium, and also must show where the funds of the state are deposited. It must be certified by the state treasurer and approved by the governor.
- 43- ~~12.~~ 12. ~~Authenticate~~ Shall authenticate with the official state seal all writings and papers issued from the treasurer's office.
- 44- ~~13.~~ 13. ~~Keep~~ Shall keep and disburse all moneys belonging to the state in the manner provided by law.
- 45- ~~14.~~ 14. ~~Keep~~ Shall keep books of the state treasurer open at all times for the inspection of the governor, the state auditor, the commissioner of financial institutions, the office of management and budget, and any committee appointed to examine them by either house of the legislative assembly.
- 46- 15. Unless otherwise specified by law, shall credit all income earned on the deposit or investment of all state moneys to the state's general fund. This subsection does not apply to:
- a. Income earned on state moneys that are deposited or invested to the credit of the industrial commission or any agency, utility, industry, enterprise, or business project operated, managed, controlled, or governed by the industrial commission.
 - b. Income earned by the Bank of North Dakota for its own account on state moneys that are deposited in or invested with the Bank.
 - c. Income earned on college and university funds not deposited in the state treasury.
- 47- ~~16.~~ 16. ~~Perform~~ Shall perform all other duties as are prescribed by law.

- ~~48.~~ 17. ~~Correct~~ Shall correct any underpayment, overpayment, or erroneous payment of tax distribution funds made by the state treasurer in a timely manner. An adjustment of an insignificant amount need not be made at the discretion of the state treasurer. The state treasurer shall adopt a written policy identifying what is considered insignificant.
18. May work to promote access to financial education tools that can help all North Dakotans make wiser choices in all areas of personal financial management.

Approved April 8, 2009
Filed April 9, 2009

CHAPTER 467**SENATE BILL NO. 2145**
(Political Subdivisions Committee)
(At the request of the State Treasurer)

AN ACT to repeal section 54-11-08 of the North Dakota Century Code, relating to registration of state bonds.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. REPEAL. Section 54-11-08 of the North Dakota Century Code is repealed.

Approved March 19, 2009
Filed March 19, 2009

CHAPTER 468**HOUSE BILL NO. 1168**

(Government and Veterans Affairs Committee)
(At the request of the State Treasurer)

AN ACT to repeal section 54-11-09 of the North Dakota Century Code, relating to registration of bonds by the state treasurer.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. REPEAL. Section 54-11-09 of the North Dakota Century Code is repealed.

Approved April 8, 2009
Filed April 9, 2009

CHAPTER 469**HOUSE BILL NO. 1306**

(Representatives Skarphol, Delmore, Thoreson)
(Senators Lyson, Nething, Robinson)

AN ACT to create and enact a new section to chapter 12-59, a new subdivision to subsection 2 of section 28-32-01, a new subsection to section 39-06.1-11, and five new sections to chapter 54-12 of the North Dakota Century Code, relating to the authority of the parole board to use the twenty-four seven sobriety program as an intermediate sanction or condition of parole, temporary restricted driver's permits, and establishment of a statewide twenty-four seven sobriety program by the attorney general; to amend and reenact subsection 3 of section 12.1-32-07 of the North Dakota Century Code, relating to supervision of probationers; to provide an appropriation; and to provide a continuing appropriation.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 12-59 of the North Dakota Century Code is created and enacted as follows:

Twenty-four seven sobriety program. The parole board may authorize participation in the twenty-four seven sobriety program as an intermediate sanction or condition of parole.

SECTION 2. AMENDMENT. Subsection 3 of section 12.1-32-07 of the North Dakota Century Code is amended and reenacted as follows:

3. The court shall provide as an explicit condition of every probation that the defendant may not possess a firearm, destructive device, or other dangerous weapon while the defendant is on probation. Except when the offense is a misdemeanor offense under section 12.1-17-01, 12.1-17-01.1, 12.1-17-05, or 12.1-17-07.1, or chapter 14-07.1, the court may waive this condition of probation if the defendant has pled guilty to, or has been found guilty of, a misdemeanor or infraction offense, the misdemeanor or infraction is the defendant's first offense, and the court has made a specific finding on the record before imposition of a sentence or a probation that there is good cause to waive the condition. The court may not waive this condition of probation if the court places the defendant under the supervision and management of the department of corrections and rehabilitation. The court shall provide as an explicit condition of probation that the defendant may not willfully defraud a urine test administered as a condition of probation. Unless waived on the record by the court, the court shall also provide as a condition of probation that the defendant undergo various agreed-to community constraints and conditions as intermediate measures of the department of corrections and rehabilitation to avoid revocation, which may include:
 - a. Community service;
 - b. Day reporting;

- c. Curfew;
- d. Home confinement;
- e. House arrest;
- f. Electronic monitoring;
- g. Residential halfway house; ~~or~~
- h. Intensive supervision program; or
- i. Participation in the twenty-four seven sobriety program.

SECTION 3. A new subdivision to subsection 2 of section 28-32-01 of the North Dakota Century Code is created and enacted as follows:

The attorney general with respect to twenty-four seven sobriety program guidelines and program fees.

SECTION 4. A new subsection to section 39-06.1-11 of the North Dakota Century Code is created and enacted as follows:

If an offender has been charged with, or convicted of, a second or subsequent violation of section 39-08-01 or equivalent ordinance and the offender's driver's license is not subject to an unrelated suspension or revocation, the director shall issue a temporary restricted driver's permit to the offender only for the purpose of participation in the twenty-four seven sobriety program upon submission of proof of financial responsibility and proof of participation in the program by the offender. If a court or the parole board finds that an offender has violated a condition of the twenty-four seven sobriety program, the court or parole board may order the temporary restricted driver's permit be revoked and take possession of the temporary restricted driver's permit. The court or the parole board shall send a copy of the order to the director who shall record the revocation of the temporary restricted driver's permit. Revocation of a temporary restricted driver's permit for violation of a condition of the twenty-four sobriety program does not preclude the offender's eligibility for a temporary restricted driver's license under any other provisions of this section.

SECTION 5. Five new sections to chapter 54-12 of the North Dakota Century Code are created and enacted as follows:

Twenty-four seven sobriety program. The attorney general may establish a statewide twenty-four seven sobriety program. The sobriety program involves coordination among state, county, and municipal agencies to implement procedures as alternatives to incarceration for offenders charged with, or convicted of, driving under the influence of alcohol or controlled substances, domestic violence, abuse or neglect of a child, or for other offenses in which alcohol or controlled substances are involved.

Twenty-four seven sobriety program guidelines and program fees. The attorney general, in cooperation with law enforcement, the judiciary, the department of corrections and rehabilitation, and the traffic safety division of the department of transportation, may develop guidelines, policies, and procedures to administer the

twenty-four seven sobriety program and to test offenders to enforce compliance with the sobriety program, including sobriety testing twice per day seven days per week, electronic monitoring, including home surveillance and remote electronic alcohol monitoring, urine testing and drug patch testing, and to establish program fees, all of which are not subject to chapter 28-32.

Twenty-four seven sobriety program fund - Continuing appropriation.

There is created the twenty-four seven sobriety program fund to be administered by the attorney general. The fund includes appropriated funds; moneys received from grants from the United States; agencies of this state; private grants, gifts, or donations; and program fees. The funds are appropriated as a continuing appropriation to the attorney general for expenses necessary for the administration and operation of the sobriety program, including staff support, training and travel costs, computer software and hardware, testing equipment, and supplies.

Twenty-four seven sobriety program fees. A criminal justice agency may collect program fees from offenders participating in the twenty-four seven sobriety program, including fees for twice per day breath alcohol testing, urine testing, drug patch testing, installation and deactivation fees for remote electronic alcohol monitoring devices, and remote electronic alcohol monitoring daily fees. The criminal justice agency shall pay all program fees into the general fund of the governing body. The fees may only be applied to twenty-four seven sobriety program support services, equipment maintenance and replacement, and compliance with the program. The governing body shall pay any daily fees collected for remote electronic alcohol monitoring to the twenty-four seven sobriety program fund.

Bond conditions. A district or municipal court of this state may order an offender charged with a violation of section 39-08-01 or equivalent ordinance, domestic violence, abuse or neglect of a child, or other offense in which alcohol or controlled substances are involved to participate in the twenty-four seven sobriety program as a condition of bond.

SECTION 6. APPROPRIATION. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$100,000, or so much of the sum as may be necessary, to the attorney general for the purpose of the twenty-four seven sobriety program, for the biennium beginning July 1, 2009, and ending June 30, 2011.

Approved April 21, 2009
Filed April 22, 2009

CHAPTER 470**HOUSE BILL NO. 1027**

(Legislative Council)
(Budget and Finance Committee)

AN ACT to create and enact section 54-16-04.3 of the North Dakota Century Code, relating to powers and duties of the emergency commission and budget section; to amend and reenact section 54-16-03.1 of the North Dakota Century Code, relating to emergency commission requests; to provide an effective date; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 54-16-03.1 of the North Dakota Century Code is amended and reenacted as follows:

54-16-03.1. Submission of petition to emergency commission. When an emergency exists, a state officer may present to the emergency commission an itemized petition requesting approval to transfer money and spending authority between funds or line items pursuant to section 54-16-04; accept and expend federal funds pursuant to section 54-16-04.1; accept and expend state contingency funds pursuant to section 54-16-09; ~~or accept and expend other funds pursuant to section 54-16-04.2;~~ or recommend full-time equivalent positions pursuant to section 54-16-04.3.

SECTION 2. Section 54-16-04.3 of the North Dakota Century Code is created and enacted as follows:

Commission may recommend full-time equivalent positions - Budget section approval. On the advice of the office of management and budget and upon the recommendation of the emergency commission, the budget section of the legislative council may authorize a state officer to employ full-time equivalent positions in addition to those authorized by the legislative assembly. The authority to employ a full-time equivalent position under this section is effective only for the remainder of the biennium during which the authority is granted by the budget section.

SECTION 3. EFFECTIVE DATE. This Act becomes effective July 1, 2009.

SECTION 4. EMERGENCY. This Act is declared to be an emergency measure.

Approved April 10, 2009

Filed April 13, 2009

CHAPTER 471**HOUSE BILL NO. 1165**

(Political Subdivisions Committee)
(At the request of the Housing Finance Agency)

AN ACT to amend and reenact subsection 2 of section 54-17-07.3 of the North Dakota Century Code, relating to the mobile home and manufactured housing finance program.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 2 of section 54-17-07.3 of the North Dakota Century Code is amended and reenacted as follows:

2. Mobile home and manufactured housing finance program. A program or programs to provide financing for the purchase or guaranty of loans a loan made by lenders to persons or families of low and moderate income a lender to finance the purchase of a mobile homes and home or a manufactured housing unit other than on a real property mortgage basis. A program authorized under this subsection may provide assistance in the development of low-income to moderate-income housing or to otherwise assist a developing community in the state address an unmet housing need or alleviate a housing shortage.

Approved April 16, 2009
Filed April 17, 2009

CHAPTER 472**SENATE BILL NO. 2127**

(Agriculture Committee)

(At the request of the Bank of North Dakota)

AN ACT to amend and reenact subsection 2 of section 54-17-34 and section 54-17-34.2 of the North Dakota Century Code, relating to definitions and financing under the first-time farmer finance program.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 2 of section 54-17-34 of the North Dakota Century Code is amended and reenacted as follows:

2. "Substantial farmland" means any parcel of land unless the parcel is smaller than thirty percent of the median size of a farm in the county in which the parcel is located ~~and does not at any time while held by the individual have a fair market value in excess of one hundred twenty-five thousand dollars.~~

SECTION 2. AMENDMENT. Section 54-17-34.2 of the North Dakota Century Code is amended and reenacted as follows:

54-17-34.2. First-time farmer participation. The first-time farmer finance program is limited as required by applicable provisions of the Internal Revenue Code of 1986 and any regulations adopted thereunder, as amended, and under the first-time farmer finance program:

1. Financing may not be made to individuals with a net worth ~~of more than two hundred thousand dollars; that exceeds the net worth requirement of the beginning farmer revolving loan program administered by the Bank of North Dakota and established by loan policy; and~~
2. ~~Financing may not be made to an individual in an aggregate amount in excess of two hundred fifty thousand dollars; and~~
3. Financing may only be made to first-time farmers for the acquisition of land in the state of North Dakota, livestock, farm improvements, and equipment to be used for farming purposes and may not exceed an amount established under the Internal Revenue Code of 1986, as amended.

Approved April 8, 2009

Filed April 9, 2009

CHAPTER 473**HOUSE BILL NO. 1383**
(Representatives Onstad, S. Meyer)

AN ACT to amend and reenact subsection 6 of section 54-17.7-02 and subsection 3 of section 54-17.7-04 of the North Dakota Century Code, relating to authorization for the North Dakota pipeline authority to participate in and provide for funding of pipeline interconnection facilities.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 6 of section 54-17.7-02 of the North Dakota Century Code is amended and reenacted as follows:

6. "Pipeline facilities" means pipelines, pumps, compressors, storage, and all other facilities, structures, and properties incidental and necessary or useful in the interconnection of pipelines or the transportation, distribution, and delivery of energy-related commodities to points of sale or consumption or to the point or points of distribution for consumption located within and without this state.

SECTION 2. AMENDMENT. Subsection 3 of section 54-17.7-04 of the North Dakota Century Code is amended and reenacted as follows:

3. Acquire, purchase, hold, use, lease, license, sell, transfer, and dispose of an undivided or other interest in or the right to capacity in any pipeline system or systems, including interconnection of pipeline systems, within or without the state of North Dakota in order to facilitate the production, transportation, distribution, or delivery of energy-related commodities produced in North Dakota as a purchaser of last resort. The obligation of the state may not exceed ten percent of the pipeline authority's acquisition or purchase of a right to capacity in any pipeline system or systems, or interconnection of pipeline systems, and the state's obligation is limited to the funding available from the oil and gas research fund.

Approved April 8, 2009
Filed April 9, 2009

CHAPTER 474**SENATE BILL NO. 2352**

(Senators Wardner, Holmberg, Horne)
(Representatives Carlson, Klein, S. Meyer)

AN ACT to amend and reenact section 54-21.2-03 of the North Dakota Century Code, relating to energy conservation standards for new buildings.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 54-21.2-03 of the North Dakota Century Code is amended and reenacted as follows:

54-21.2-03. Energy conservation standards. ~~The standards~~ Standards for energy conservation in new building construction, for thermal design conditions and criteria for buildings, and for adequate thermal resistance in regard to the design and selection of mechanical, electrical service, and illumination systems and equipment which will enable the effective use of energy in new buildings, must ~~at least equal the Energy Conservation Code based on the Council of American Building Officials Model Energy Code, 1989 Edition.~~ at least equal the Energy Conservation Code based on the Council of American Building Officials Model Energy Code, 1989 Edition. ~~The department of commerce shall adopt rules to implement, update, and amend the Model Energy Code~~ be included in the state building code.

Approved April 22, 2009
Filed April 23, 2009

CHAPTER 475**SENATE BILL NO. 2354**
(Senators Krebsbach, Bakke, Fischer)
(Representatives Conrad, Hawken, Martinson)

AN ACT to amend and reenact section 54-21.3-03 of the North Dakota Century Code, relating to the state and local building codes.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 54-21.3-03 of the North Dakota Century Code is amended and reenacted as follows:

54-21.3-03. State building code.

1. The department of commerce, in cooperation with the state building code advisory committee, shall adopt rules to implement, amend, and periodically update the state building code, which must consist of the international building, residential, mechanical, and fuel gas codes.
2. The state building code advisory committee consists of:
 - a. Two representatives appointed by the North Dakota building officials association, one of whom must be from a jurisdiction of fewer than ten thousand people.
 - b. One representative appointed by the North Dakota chapter of the American institute of architects.
 - c. One representative appointed by the North Dakota society of professional engineers.
 - d. One representative appointed by the North Dakota association of builders.
 - e. One representative appointed by the North Dakota association of mechanical contractors.
 - f. One representative appointed by the associated general contractors.
 - g. A fire marshal appointed by the state fire marshal.
 - h. One individual appointed by the state electrical board.
3. The state building code advisory committee shall meet with the department of commerce or a designee of the commissioner of commerce at least once each calendar year to address proposed amendments to the state building code. The department of commerce may not adopt an amendment to the state building code unless the amendment is approved by a majority vote of:

- a. One representative appointed by the North Dakota chapter of the American institute of architects;
 - b. One representative appointed by the North Dakota society of professional engineers;
 - c. One representative appointed by the North Dakota association of builders;
 - d. One representative appointed by the North Dakota association of mechanical contractors;
 - e. One representative appointed by the associated general contractors; and
 - f. Representatives of eligible jurisdictions as established by administrative rule.
4. Neither the state building code nor a building code adopted by a city, township, or county may include a requirement that fire sprinklers be installed in a single family dwelling or a residential building that contains no more than two dwelling units.
5. For the purposes of manufactured homes, the state building code consists of the manufactured homes construction and safety standards under 24 CFR 3280 adopted pursuant to the Manufactured Housing Construction and Safety Standards Act [42 U.S.C. 5401 et seq.].
- ~~6.~~ 6. The governing body of a city, township, or county that elects to administer and enforce a building code shall adopt and enforce the state building code. However, the state building code may be amended by cities, townships, and counties to conform to local needs.
- ~~6.~~ 7. A modular residential structure or a prebuilt home placed in the state must be constructed in compliance with the state building code. A modular residential structure or a prebuilt home placed in a jurisdiction that has amended the state building code must be constructed in compliance with the state building code and the amendments adopted by that jurisdiction.

Approved April 8, 2009
Filed April 9, 2009

CHAPTER 476**SENATE BILL NO. 2355**

(Senators Dever, Heckaman)
(Representative L. Meier)

AN ACT to provide a short-term shelter and assessment pilot program for at-risk youth; to provide a report to the legislative council; to provide for a legislative council study; and to provide an appropriation.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. SHORT-TERM SHELTER AND ASSESSMENT PILOT PROGRAM. The department of corrections and rehabilitation shall establish a pilot program in the south central judicial district for the purpose of providing short-term shelter, assessment, and intervention services for at-risk children and youth, for the biennium beginning July 1, 2009, and ending June 30, 2011. The program must allow for the placement of at-risk children and youth in a short-term shelter program and provide professional assessment and family reunification services as an alternative to placement in foster care or group care. The shelter facility must be nonsecure and approved by the juvenile court. The department shall contract with a private nonprofit organization to provide the pilot program services.

SECTION 2. APPROPRIATION. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$200,000, or so much of the sum as may be necessary, to the department of corrections and rehabilitation for the purpose of contracting with a private nonprofit organization to conduct the pilot program established in section 1 of this Act, for the biennium beginning July 1, 2009, and ending June 30, 2011.

SECTION 3. REPORT TO LEGISLATIVE COUNCIL. The department of corrections and rehabilitation shall provide a report to the legislative council regarding the short-term shelter and assessment pilot program authorized by section 1 of this Act.

SECTION 4. LEGISLATIVE COUNCIL STUDY. During the 2009-10 interim, the legislative council shall consider studying the statewide need for short-term shelter, assessment, and intervention services for at-risk children and youth across the state and the feasibility and desirability of using such services instead of foster or group care for short-term placements. The study also must include recommendations regarding sources of reliable funding, the appropriate state administrative agency, and a delivery system that reflects local resources and preferences and evidence-based methods for involving parents in follow-up services. The legislative council shall report its findings and recommendations, together with any legislation necessary to implement the recommendations, to the sixty-second legislative assembly.

Approved April 22, 2009
Filed April 23, 2009

CHAPTER 477**SENATE BILL NO. 2111**

(Judiciary Committee)

(At the request of the Department of Corrections and Rehabilitation)

AN ACT to amend and reenact subsection 7 of section 54-23.4-01 of the North Dakota Century Code, relating to crime victims compensation.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 7 of section 54-23.4-01 of the North Dakota Century Code is amended and reenacted as follows:

7. "Economic loss" means economic detriment consisting only of allowable expense, work loss, replacement services loss, and, if injury causes death, dependent's economic loss and dependent's replacement services loss. Noneconomic detriment is not loss. The term includes economic detriment caused by pain and suffering or physical impairment.
 - a. "Allowable expense" means reasonable charges incurred for reasonably needed products, services, and accommodations required due to the injury, including those for medical care, rehabilitation, rehabilitative occupational training, and other remedial treatment and care. The term includes a total charge not in excess of ~~three~~ five thousand dollars for expenses in any way related to funeral, cremation, and burial. The term does not include that portion of a charge for a room in a hospital, clinic, convalescent or nursing home, or any other institution engaged in providing nursing care and related services, in excess of a reasonable and customary charge for semiprivate accommodations, unless the excess represents costs of other accommodations that are medically required.
 - b. "Dependent's economic loss" means loss after a victim's death of contributions of things of economic value to a victim's dependent, not including services the dependent would have received from the victim if the victim had not suffered the fatal injury, less expenses of the dependent avoided by reason of the victim's death.
 - c. "Dependent's replacement services loss" means loss reasonably incurred by a dependent after a victim's death in obtaining ordinary and necessary services in lieu of those the victim would have performed for the dependent's benefit if the victim had not suffered the fatal injury, less expenses of the dependent avoided by reason of the victim's death and not subtracted in calculating the dependent's economic loss.
 - d. "Noneconomic detriment" means pain, suffering, inconvenience, physical impairment, and other nonpecuniary damage.

- e. "Replacement services loss" means expenses reasonably incurred in obtaining ordinary and necessary services in lieu of those the victim would have performed, not for income but for the benefit of the victim or the victim's family, if the victim had not been injured.
- f. "Work loss" means loss of income from work the victim would have performed if the victim had not been injured, and expenses reasonably incurred by the victim in obtaining services in lieu of those the victim would have performed for income, reduced by any income from substitute work actually performed by the victim or by income the victim would have earned in available appropriate substitute work the victim was capable of performing but unreasonably failed to undertake.

Approved March 19, 2009
Filed March 19, 2009

CHAPTER 478**HOUSE BILL NO. 1115**

(Government and Veterans Affairs Committee)
(At the request of the State Treasurer)

AN ACT to amend and reenact section 54-27-11 of the North Dakota Century Code, relating to fiscal administration.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 54-27-11 of the North Dakota Century Code is amended and reenacted as follows:

54-27-11. Appropriation - Record kept by office of management and budget and treasurer - Duties and limitations. The office of management and budget and state treasurer each shall keep a record in their offices showing:

1. The total amount appropriated for maintenance for each state officer or agency, and of each separate item thereof.
2. The amount equal to seventy-five and twenty-five percent of the total appropriated and each separate item thereof.
3. The amount expended and the balance on hand. The term expended includes amounts which are payable for which funds have not yet been disbursed.

The office of management and budget may not allow any expenditure or issue any warrant during the first eighteen months of each biennium in excess of seventy-five percent of any item appropriated for salaries and wages and operating expenses for any state official or state agency in the executive branch of government ~~nor may the state treasurer pay such warrant.~~ The duties and limitations imposed upon the office of management and budget ~~and state treasurer~~ apply only to the total amount appropriated for salaries and wages and operating expenses for the biennium but not to separate amounts appropriated for those line items, for all penal and charitable institutions of this state and all institutions under the jurisdiction and supervision of the state board of higher education. The administrative department, office, or board shall keep a record showing the amount, equal to seventy-five and twenty-five percent, respectively, of the total amount and of each separate item appropriated for salaries and wages and operating expenses for all such institutions under its control and is responsible for the enforcement of the restrictions upon the expenditure of all moneys appropriated to such institutions for such purposes.

Approved March 19, 2009
Filed March 24, 2009

CHAPTER 479**HOUSE BILL NO. 1130**

(Transportation Committee)

(At the request of the State Treasurer)

AN ACT to amend and reenact subsection 2 of section 54-27-19 of the North Dakota Century Code, relating to vehicle registrations for purposes of highway tax distribution fund allocations.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹⁷⁹ **SECTION 1. AMENDMENT.** Subsection 2 of section 54-27-19 of the North Dakota Century Code is amended and reenacted as follows:

2. Thirty-seven percent of such moneys must be allocated to the counties of this state in proportion to the number of ~~motor~~ vehicle registrations credited to each county. Each county must be credited with the certificates of title of ~~all motor~~ vehicles registered by residents of such county. The state treasurer shall compute and distribute the counties' share monthly after deducting the incorporated cities' share. All the moneys received by the counties from the highway tax distribution fund must be set aside in a separate fund called the "highway tax distribution fund" and must be appropriated and applied solely for highway purposes in accordance with section 11 of article X of the Constitution of North Dakota. The state treasurer shall compute and distribute monthly the sums allocated to the incorporated cities within each county according to the formula in this subsection on the basis of the per capita population of all of the incorporated cities situated within each county as determined by the last official regular or special federal census or the census taken in accordance with the provisions of chapter 40-02 in case of a city incorporated subsequent to such census. Provided, however, that in each county having a city with a population of ten thousand or more, the amount transferred each month into the county highway tax distribution fund must be the difference between the amount allocated to that county pursuant to this subsection and the total amount allocated and distributed to the incorporated cities in that county as computed according to the following formula:
 - a. A statewide per capita average as determined by calculating twenty-seven percent of the amount allocated to all of the counties under this subsection divided by the total population of all of the incorporated cities in the state.
 - b. The share distributed to each city in the county having a population of less than one thousand must be determined by multiplying the population of that city by the product of 1.50 times the statewide per capita average computed under subdivision a.

¹⁷⁹ Section 54-27-19 was also amended by section 18 of Senate Bill No. 2012, chapter 40.

- c. The share distributed to each city in the county having a population of one thousand to four thousand nine hundred ninety-nine, inclusive, must be determined by multiplying the population of that city by the product of 1.25 times the statewide per capita average computed under subdivision a.
- d. The share distributed to each city in the county having a population of five thousand or more must be determined by multiplying the population of that city by the statewide per capita average for all such cities, which per capita average must be computed as follows: the total of the shares computed under subdivisions b and c for all cities in the state having a population of less than five thousand must be subtracted from the total incorporated cities' share in the state as computed under subdivision a and the balance remaining must then be divided by the total population of all cities of five thousand or more in the state.

Approved April 8, 2009
Filed April 9, 2009

CHAPTER 480

SENATE BILL NO. 2110

(Industry, Business and Labor Committee)
(At the request of the Department of Commerce)

AN ACT to create and enact two new sections to chapter 54-60 of the North Dakota Century Code, relating to the rural development office and the North Dakota rural development council; to amend and reenact sections 10-30.5-04, 54-34.3-01, 54-34.3-03, and 54-34.3-04, subsection 2 of section 54-34.3-13, sections 54-34.3-15, 54-34.4-01, and 54-34.4-02, subsection 1 of section 54-34.4-03, section 54-60-03, subsection 3 of section 54-60-04, and sections 54-60-06 and 54-60-17 of the North Dakota Century Code, relating to the powers of the North Dakota Development Fund, Incorporated, the department of commerce division of economic development and finance, the department of commerce division of tourism, the state tourism policy, the commissioner of commerce, the North Dakota economic development foundation, the North Dakota commerce cabinet, and the department of commerce division of workforce development; and to repeal sections 54-34.3-05, 54-34.4-04, and 54-60-11 of the North Dakota Century Code, relating to the finance office, the motion picture development office, and target industries.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹⁸⁰ **SECTION 1. AMENDMENT.** Section 10-30.5-04 of the North Dakota Century Code is amended and reenacted as follows:

10-30.5-04. (~~Effective through July 31, 2009~~) Powers. The corporation must be organized as a nonprofit corporation. In addition to the powers in chapter 10-33, the corporation may:

1. Cooperate and contract with any private or public entity.
2. Receive appropriations from the legislative assembly and other public moneys as well as contributions from other private or public contributors.
3. ~~Borrow funds not to exceed ten million dollars from the Bank of North Dakota for the purpose of investing in North Dakota alternative and venture capital investments and early-stage capital funds. The corporation may provide~~ Provide management services for the Bank's alternative and venture capital investments and early-stage capital funds.

~~(Effective after July 31, 2009) Powers.~~ The corporation must be organized as a nonprofit corporation. In addition to the powers in chapter 10-33, the corporation may:

¹⁸⁰ Section 10-30.5-04 was also amended by section 2 of House Bill No. 1202, chapter 109.

1. ~~Cooperate and contract with any private or public entity.~~
2. ~~Receive appropriations from the legislative assembly and other public moneys as well as contributions from other private or public contributors.~~

SECTION 2. AMENDMENT. Section 54-34.3-01 of the North Dakota Century Code is amended and reenacted as follows:

54-34.3-01. Department of commerce division of economic development and finance established - Mission. The department of commerce division of economic development and finance is established to assume the functions, powers, and duties of the department of economic development and finance with respect to programs and other efforts intended to enhance the economic development of the state. The mission of the division is to develop strategies and programs to:

1. Facilitate the growth, diversification, and expansion of existing enterprises and the attraction and creation of new wealth-generating enterprises in the state;
2. Promote economic diversification and innovation within the basic industries and economic sectors of this state, including strategies and programs designed to specialize and focus the state's economy on advanced agriculture and food processing, energy byproduct development, export services and tourism, and advanced manufacturing identified target industries;
3. Promote increased productivity and value-added products, processes, and services in the state, and the export of those goods and services by North Dakota enterprises to the nation and to the world;
4. Maintain and revitalize economically depressed rural areas by working in close collaboration with local communities and by encouraging communities to enter into cooperative relationships for more efficient and effective education, health care, government service, and infrastructure maintenance;
5. Forge a supportive partnership with the Bank of North Dakota, the board of higher education and the state's institutions of higher education, regional planning councils, local development organizations and authorities, the Myron G. Nelson Fund, Incorporated, the state's nonprofit development corporations, and other appropriate private and public sector organizations in achieving the economic goals of the state; and
6. Identify those statutes, administrative rules, and policies that impede the attraction, creation, and expansion of businesses and job creation in this state.

SECTION 3. AMENDMENT. Section 54-34.3-03 of the North Dakota Century Code is amended and reenacted as follows:

54-34.3-03. Division structure. The division consists of:

1. A finance office;

- ~~2. An international business and trade office;~~
- ~~3. Offices established by statute; and~~
4. 2. Offices the director organizes and establishes as necessary to carry out most efficiently and effectively the mission and duties of the division.

SECTION 4. AMENDMENT. Section 54-34.3-04 of the North Dakota Century Code is amended and reenacted as follows:

54-34.3-04. Director - Compensation - Duties. A director shall supervise and control the division. The director shall:

1. Manage the internal operations of the division and establish policies that promote the orderly and efficient administration of the division;
2. Appoint personnel as may be determined necessary to carry out this chapter and fix their compensation within the limits of legislative appropriations;
3. Assume central responsibility to develop, implement, and coordinate within state government a comprehensive program of economic development consistent with the mission of the division;
4. Coordinate that program of economic development with all other appropriate state and local government departments, agencies, institutions, and organizations that perform research, develop and administer programs, gather statistics, or perform other functions relating to economic development, and those government entities shall advise, cooperate, and provide reasonable assistance to the director in carrying out this chapter;
5. Advise, and cooperate with, departments and agencies of the federal government and of other states, private business and agricultural organizations and associations, research institutions, and any individual or other private or public entity, and call upon those entities or individuals for consultation and assistance in their respective fields of endeavor or interest in order that the division and the state may benefit from up-to-date technical advice, information, and assistance;
6. Cooperate with individuals and both public and private entities, including the state's congressional delegation, in identifying and pursuing potential sources of funding and to receive those funds to be expended for purposes consistent with this chapter;
7. Have authority to enter into contracts upon terms and conditions as determined by the director to be reasonable and to effectuate the purposes of this chapter; ~~and~~
8. Identify and coordinate sources of capital and financial assistance, including lending programs of the Bank of North Dakota, and administer programs of financial assistance placed under the administration of the division, to business and industry, local governments, and other entities and individuals in the state consistent with the mission of the division; and

9. Have authority to do any and all other things necessary and proper to carry out this chapter.

SECTION 5. AMENDMENT. Subsection 2 of section 54-34.3-13 of the North Dakota Century Code is amended and reenacted as follows:

2. The department shall designate an applicant city as a rural growth incentive city eligible for a loan if the city raises funds in the amount of a dollar-for-dollar match for the amount requested in the loan, ~~prepares an economic development strategic plan,~~ and meets any additional program requirements provided by rule. The source of city funds used for loan matching funds may be any combination of public and private funds. If the department designates a city as a rural growth incentive city eligible for a loan under this section, subject to the availability of funds, the state shall make a loan to the city in an amount not less than twenty-five thousand dollars and not more than seventy-five thousand dollars. The department shall establish the amount of the interest rate for loans provided to a city under this subsection. The funding source of the state loan is the North Dakota development fund. The city shall distribute the city and state funds to qualifying new or expanded primary sector businesses in the city. A qualifying business in the city includes a business that provides essential services to the city. For purposes of this subsection, a business that provides essential services does not include a public utility. The governing body of the city determines whether a new or expanded primary sector business qualifies for funding, and the director of the department determines whether a business that provides essential services to the city qualifies for funding. The state shall distribute a loan to a rural growth incentive city once the city establishes the city has chosen a specified qualified business to receive funding.

SECTION 6. AMENDMENT. Section 54-34.3-15 of the North Dakota Century Code is amended and reenacted as follows:

54-34.3-15. Local economic developer certification ~~program and education programs.~~ The director ~~shall~~ may implement a certification ~~program and education programs~~ through which the division provides training to assist local economic developers and community leaders in meeting the needs of businesses. The director may contract with a third-party service provider to assist in implementing the program. The director may set and charge a fee for the receipt of services under this program.

SECTION 7. AMENDMENT. Section 54-34.4-01 of the North Dakota Century Code is amended and reenacted as follows:

54-34.4-01. Division of tourism - Director. The division of tourism is established to foster and promote tourism to, and within, the state and the full development of the state's tourism resources and to serve as a planning and coordinating agency for tourism-related programs of the state and the state's ~~political subdivisions~~ tourism partners. The director shall supervise and control the division of tourism.

SECTION 8. AMENDMENT. Section 54-34.4-02 of the North Dakota Century Code is amended and reenacted as follows:

54-34.4-02. Duties of director. The director of the department of commerce division of tourism, within the limits of legislative appropriations, shall:

1. Implement the state's tourism policy;
2. Prepare and update annually a tourism ~~master~~ marketing plan for the ~~development~~ promotion and expansion of tourism in the state which identifies the state's tourism resources, estimates the impact of tourism on the state's economy, and proposes a ~~five-year plan~~ marketing strategy for activities of the division;
3. Work with industry groups to prepare a long-term strategic plan each biennium;
4. Measure and forecast visitor volume, receipts, and related social and economic impacts;
4. 5. Work with the private sector and local, state, and federal agencies to develop the state's tourism-related infrastructure, facilities, services, and attractions, including the state's highways ~~and~~, parks, and historic sites;
5. 6. Organize and coordinate programs designed to promote tourism to, and within, the state through various means. Those means may include:
 - a. ~~Display~~ Print advertising in magazines ~~and~~, newspapers, and direct mail;
 - b. Advertising on radio ~~and~~, on television, online, in displays, or using other advertising media;
 - c. Publishing pamphlets, brochures, and other graphic and pictorial materials; ~~and~~
 - d. Designing the tourism side of the state highway map;
 - e. Aiding and assisting representatives of the media to ensure greater coverage of the state's visitor attractions, events, and recreational opportunities; and
 - f. Other marketing activities and events aimed at increasing visitor volume;
6. ~~Participate in travel shows;~~
7. ~~Supervise and administer visitor information centers that receive funding from the state~~ Work with the department of transportation to improve visitor services along highways in the state and in state rest areas;
8. Develop opportunities for professional and technical education and training in the visitor industry;
9. Foster an understanding among the state's residents of the economic importance to the state of hospitality and tourism;

10. ~~Cooperate with local, state, and federal agencies and organizations and the private sector for the promotion and development of tourism to, and within, the state;~~
44. Provide advice and technical assistance to local, public, and private tourism organizations in promoting and developing tourism; and
- ~~42-~~ 11. Monitor the policies and programs of state agencies that significantly affect the visitor industry, notify those agencies of the effects of their actions on travel to, and within the state, and if necessary recommend programs or policy changes to those agencies.

SECTION 9. AMENDMENT. Subsection 1 of section 54-34.4-03 of the North Dakota Century Code is amended and reenacted as follows:

1. The legislative assembly declares that:
 - a. This state is endowed with scenic beauty, historical sites, cultural resources, local festivals, attractions, recreational facilities, and a population whose ethnic diversity and traditions are attractive to visitors;
 - b. These human and physical resources should be preserved and nurtured, not only because they are appreciated by other Americans and by visitors from other lands, but because they are valued by the state's residents;
 - c. Tourism contributes to economic well-being by creating job opportunities, generating revenues for local businesses, and creating new wealth in the economy;
 - d. Tourism is an educational and informational medium for personal growth which informs residents about their state's geography and history, their political institutions, their cultural resources, their environment, and about each other;
 - e. Tourism instills state pride and a sense of common interest among the state's residents;
 - f. Tourism enhances the quality of life and well-being of the state's residents by affording opportunities for recreation, new experiences, and relief from job stress;
 - g. Tourism advertising and marketing improves the image of North Dakota;
 - h. Tourism promotes international understanding and good will, and contributes to intercultural appreciation;
 - ~~h-~~ i. Tourism engenders appreciation of the state's cultural, architectural, technological, agricultural, and industrial achievements and is helpful in attracting new residents;
 - ~~h-~~ j. The development and promotion of tourism to and within the state is in the interest of the people of this state;

- ~~j~~ k. Tourism should develop in an orderly manner in order to provide the maximum benefit to the state and its residents;
- ~~k~~ l. The development of a strong and competitive state visitor industry depends upon the availability of trained personnel, necessary infrastructure, and a receptive climate for tourism investment; and
- ~~l~~ m. A comprehensive tourism policy is essential if tourism in the state is to grow in an orderly manner.

¹⁸¹ **SECTION 10. AMENDMENT.** Section 54-60-03 of the North Dakota Century Code is amended and reenacted as follows:

54-60-03. Commissioner of commerce - Duties. With the advice and counsel of the North Dakota development foundation, the governor shall appoint a commissioner to supervise, control, and administer the department. The commissioner serves at the pleasure of the governor and receives a salary set by the governor within the limits of legislative appropriations. The commissioner:

1. Shall file an oath of office in the usual form before commencing to perform the duties of the commissioner;
2. Shall serve as chairman of the cabinet;
3. ~~Shall prepare the cabinet's list identifying economic development moneys included in budget requests of cabinet agencies;~~
4. Shall appoint personnel as may be determined necessary to carry out the duties of the department;
- ~~5~~ 4. Shall manage the operations of the department and oversee each of the divisions;
- ~~6~~ 5. Shall assume central responsibilities to develop, implement, and coordinate a working network of commerce service providers;
- ~~7~~ 6. Shall coordinate the department's services with commerce-related services of other state agencies;
- ~~8~~ 7. Shall advise and cooperate with departments and agencies of the federal government and of other states; private businesses, agricultural organizations, and associations; research institutions; and with any individual or other private or public entity;
- ~~9~~ 8. May enter contracts upon terms and conditions as determined by the commissioner to be reasonable and to effectuate the purposes of this chapter;
- ~~10~~ 9. Shall report between the first and tenth legislative days of each regular legislative session to a standing committee of each house of the

¹⁸¹ Section 54-60-03 was also amended by section 89 of House Bill No. 1436, chapter 482.

legislative assembly as determined by the legislative council and shall report annually to the foundation:

- a. On the department's goals and objectives since the last report;
- b. On the department's goals and objectives for the period until the next report;
- c. On the department's long-term goals and objectives;
- d. On the department's activities and measurable results occurring since the last report; and
- e. On commerce benchmarks, including the average annual wage in the state, the gross state product exclusive of agriculture, and the number of primary sector jobs in the state;

~~44-~~ 10. Shall adopt rules necessary to implement this chapter; and

~~42-~~ 11. May take any actions necessary and proper to implement this chapter.

SECTION 11. AMENDMENT. Subsection 3 of section 54-60-04 of the North Dakota Century Code is amended and reenacted as follows:

3. The foundation shall seek funding for administrative expenses from private sector sources and shall seek and distribute private sector funds for use in commerce-related activities ~~in~~ of the state.

SECTION 12. AMENDMENT. Section 54-60-06 of the North Dakota Century Code is amended and reenacted as follows:

54-60-06. Commerce cabinet. The North Dakota commerce cabinet is created. The cabinet is composed of the directors of each of the department divisions and of the executive heads, or other authorized representatives, of the state board for career and technical education, the state board of higher education, the Bank of North Dakota, the department of agriculture, workforce safety and insurance, the department of transportation, job service North Dakota, the game and fish department, and of any other state agency appointed by the commissioner. The commissioner is the chairman of the cabinet and shall determine which agencies are members of the cabinet. The cabinet shall:

1. Coordinate and communicate economic development and tourism efforts of the agencies represented.
2. Meet at times determined by the commissioner.
- ~~3. Develop and make available before each regular session of the legislative assembly a list that identifies economic development moneys included in budget requests of cabinet agencies.~~

¹⁸² **SECTION 13. AMENDMENT.** Section 54-60-17 of the North Dakota Century Code is amended and reenacted as follows:

54-60-17. Division of workforce development - Higher education internships, apprenticeships, and work experience opportunities. ~~The division of workforce development shall administer a program to increase use of higher education internships, apprenticeships, and work experience opportunities for higher education students and high school students enrolled in grade eleven or twelve. The primary focus of this program must be higher education internships in target industries. This program shall provide services to employers, communities, and business organizations to increase higher education internship, apprenticeship, and work experience opportunities.~~

SECTION 14. A new section to chapter 54-60 of the North Dakota Century Code is created and enacted as follows:

Rural development office.

1. The commissioner shall administer the rural development office. The purpose of the office is to assist in the development of rural North Dakota communities.
2. The commissioner may contract with a third party for the provision of services for the rural development office. If the commissioner contracts with a third party under this subsection, all data and databases collected and created by the third party in performing services for the office are the property of the department and the third party.
3. The department may seek and accept any gift, grant, or donation of funds, property, services, or other assistance from public or private sources for the purpose of furthering the objectives of the rural development office.

SECTION 15. A new section to chapter 54-60 of the North Dakota Century Code is created and enacted as follows:

North Dakota rural development council - Composition. The North Dakota rural development council is created.

1. The North Dakota rural development council is composed of a minimum of nine and a maximum of seventeen members. The commissioner is an ex officio voting member of the council. The governor shall appoint council members for two-year terms, except the governor shall appoint approximately one-half of the initial council members to one-year terms in order to initiate a cycle of staggered terms. Appointment of the council members must ensure representation from eight regions designated by the commissioner. Members of the council serve at the pleasure of the governor.

¹⁸² Section 54-60-17 was also amended by section 37 of Senate Bill No. 2018, chapter 46.

2. The council shall select its own officers who shall serve for a term of two years commencing on October first of each year.
3. The council shall have at least two meetings each year and such additional meetings as the chairman determines necessary at a time and place to be fixed by the chairman. Special meetings must be called by the chairman on written request of any four members. A simple majority of the council constitutes a quorum and may act upon any matter coming before the council. Members of the council are entitled to reimbursement in the same manner and at the same rate provided by law for other state officials.
4. The council, in cooperation with the rural development office, shall:
 - a. Facilitate collaboration among federal, state, local, and tribal governments and the private and nonprofit sectors in the planning and implementation of programs and policies that have an impact on rural areas of the state;
 - b. Monitor, report, and comment on policies and programs that address, or fail to address, the needs of the rural areas of the state; and
 - c. Facilitate the development of strategies to reduce or eliminate conflicting or duplicative administrative or regulatory requirements of federal, state, local, and tribal governments.

¹⁸³ **SECTION 16. REPEAL.** Sections 54-34.3-05, 54-34.4-04, and 54-60-11 of the North Dakota Century Code are repealed.

Approved April 30, 2009
Filed May 1, 2009

¹⁸³ Section 54-60-11 was also amended by section 90 of House Bill No. 1436, chapter 482.

CHAPTER 481**SENATE BILL NO. 2372**
(Senators Wanzek, Dotzenrod, Klein)
(Representatives Belter, Monson, Schneider)

AN ACT to create and enact a new section to chapter 54-34.3 of the North Dakota Century Code, relating to the promotion of life science industries.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 54-34.3 of the North Dakota Century Code is created and enacted as follows:

Life science industries - Promotion - Exemption. The commissioner of commerce shall promote the development of life science industries in this state. Life science industries include biotechnology, biomedical sciences, and biopharmaceuticals. If any entity owns or operates an animal or research facility, the ownership or operation does not violate the requirements of chapter 10-06.1, provided the commissioner annually certifies to the secretary of state that:

1.
 - a. The facility is licensed or registered with the United States department of agriculture animal and plant health inspection service, as required by the Animal Welfare Act;
 - b. The facility has an assurance on file with the United States public health service; or
 - c. The facility is accredited by the association for assessment and accreditation of laboratory animal care; and
2. The primary purpose of the facility involves the production of products for uses other than human food consumption.

Approved April 22, 2009
Filed April 23, 2009

CHAPTER 482**HOUSE BILL NO. 1436**

(Representatives Carlson, Boucher, Monson)
(Senators Stenehjem, O'Connell)

AN ACT to amend and reenact section 1-02-06.1, subsection 2 of section 1-02-09, sections 1-02-09.2, 4-05.1-19, 15-10-42, 15-10-43, and 15-11-39, subsection 5 of section 15-39.1-05.2, subsection 3 of section 15.1-02-13, section 15.1-02-15, subsection 3 of section 15.1-06-08, subsection 4 of section 15.1-06-08.1, sections 15.1-21-10 and 16.1-01-17, subsection 5 of section 18-11-15, section 24-02-46, subsection 3 of section 25-01.3-02, subsection 3 of section 25-02-01.1, sections 26.1-36.4-06, 28-32-03, 28-32-06, and 28-32-07, subsection 1 of section 28-32-10, sections 28-32-15, 28-32-17, 28-32-18, 28-32-19, and 28-32-20, subsection 3 of section 34-11.1-01, subsection 2 of section 40-63-03, sections 44-04-18.6, 48-08-04, and 48-10-01, subsection 4 of section 49-23-03, subsections 3 and 4 of section 50-09-29, sections 52-02-18, 54-03-02, 54-03-04, and 54-03-19.2, subsection 2 of section 54-03-20, sections 54-03-26, 54-03-27, 54-03.1-02, 54-03.2-02, and 54-05.1-02, subsections 3 and 4 of section 54-06-25, sections 54-06-31, 54-35-01, 54-35-02, 54-35-02.1, 54-35-02.2, 54-35-02.3, 54-35-02.4, 54-35-02.5, 54-35-02.6, 54-35-02.7, 54-35-02.8, 54-35-03, 54-35-04, 54-35-05, 54-35-06, 54-35-07, 54-35-08, 54-35-09, 54-35-10, 54-35-11, 54-35-12, 54-35-15, 54-35-15.1, 54-35-16, 54-35-17, 54-35-18, 54-35-22, 54-35-23, 54-35.2-01, 54-35.2-02, 54-35.2-04, and 54-35.2-05, subsection 3 of section 54-40-01, sections 54-44.1-12.1, 54-52.1-08.2, 54-55-01, 54-55-04, 54-58-03, 54-59-07, 54-59-11, 54-59-12, and 54-59-23, subsection 10 of section 54-60-03, and sections 54-60-11, 54-62-03, 57-40.6-12, 61-24-04, 61-24.5-04, 65-02-30, and 65-06.2-09 of the North Dakota Century Code, relating to differentiation between the legislative management and the legislative council as an agency of the legislative branch; to repeal section 49-21-22.2 of the North Dakota Century Code, relating to the regulatory reform review commission; and to authorize replacement of obsolete terms.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 1-02-06.1 of the North Dakota Century Code is amended and reenacted as follows:

1-02-06.1. Journal entry rule - Presumption of validity of legislation. A bill or resolution passed by the senate and the house of representatives of the legislative assembly as evidenced by the journals of the senate and house is presumed to be the bill or resolution that is signed by the presiding officers of the senate and house, presented to the governor, and filed with the secretary of state. If there is a difference between versions of a bill, the legislative council ~~staff~~ shall direct the publisher of the code to publish the law according to this section. The law as published must be presumed valid until determined otherwise by an appropriate court.

SECTION 2. AMENDMENT. Subsection 2 of section 1-02-09 of the North Dakota Century Code is amended and reenacted as follows:

2. Whenever two or more concurrent resolutions, adopted during the same session of the legislative assembly, propose to create or amend, or amend and repeal, the same section of the Constitution of North Dakota, the secretary of state, in consultation with the attorney general, shall determine if the proposals are irreconcilable, and if they are irreconcilable, the resolution last adopted by the legislative assembly, as determined by the legislative council ~~or its designee~~, must be placed on the ballot for the appropriate election for approval or disapproval by the electorate.

SECTION 3. AMENDMENT. Section 1-02-09.2 of the North Dakota Century Code is amended and reenacted as follows:

1-02-09.2. Reconciliation of conflicting proposed amendments to the constitution. If two or more concurrent resolutions propose to amend or create the same section of the Constitution of North Dakota, and the proposed sections are reconcilable, the legislative council, ~~or its designee~~, shall prepare a reconciled text and submit it to the secretary of state for inclusion in the appropriate ballot.

SECTION 4. AMENDMENT. Section 4-05.1-19 of the North Dakota Century Code is amended and reenacted as follows:

4-05.1-19. State board of agricultural research and education - Duties. Within the policies of the state board of higher education, the state board of agricultural research and education is responsible for budgeting and policymaking associated with the agricultural experiment station and the North Dakota state university extension service. The state board of agricultural research and education shall:

1. Determine the causes of any adverse economic impacts on crops and livestock produced in this state;
2. Develop ongoing strategies for the provision of research solutions and resources to negate adverse economic impacts on crops and livestock produced in this state;
3. Develop ongoing strategies for the dissemination of research information through the extension service;
4. Implement the strategies developed under subsections 2 and 3, subject to approval by the state board of higher education;
5. Develop, with the agricultural experiment station and the North Dakota state university extension service, an annual budget for the operations of these entities;
6. Develop a biennial budget request and submit that request to the president of North Dakota state university and the state board of higher education;
7. Maximize the use of existing financial resources, equipment, and facilities to generate the greatest economic benefit from research and extension efforts and to promote efficiency;

8. Annually evaluate the results of research and extension activities and expenditures and report the findings to the legislative ~~council~~ management and the state board of higher education;
9. Advise the president of North Dakota state university regarding the recruitment, selection, and performance of the vice president of agricultural affairs, the extension service director, and the station director; and
10. Present a status report to the budget section of the legislative ~~council~~ management.

SECTION 5. AMENDMENT. Section 15-10-42 of the North Dakota Century Code is amended and reenacted as follows:

15-10-42. Faculty - English pronunciation - Policy - Report. The state board of higher education shall create a policy for all institutions under its control, relating to the assessment of faculty and teaching assistant communication skills, including the ability to speak English clearly and with good pronunciation, the notification to students of opportunities to file complaints, the process for responding to student complaints, and the resolution of reported communication problems. ~~Before July 1, 2006, the state board of higher education shall report to the legislative council regarding implementation of the policy.~~

SECTION 6. AMENDMENT. Section 15-10-43 of the North Dakota Century Code is amended and reenacted as follows:

15-10-43. Veterinary medical education program - Kansas state university - Contract.

1. In addition to any contracts under section 15-10-28.2, the state board of higher education may contract with Kansas state university to provide an opportunity for up to five eligible students to enroll in the veterinary medical education program at Kansas state university.
2. Eligible students must be residents of this state and must have been selected for enrollment by an admissions committee consisting of one faculty member from the department of veterinary and microbiological sciences at North Dakota state university, one veterinarian practicing in this state, one member of the legislative assembly, and one livestock producer, all of whom must be appointed by the legislative ~~council~~ management, and the chairman of the admissions committee at the Kansas state university school of veterinary medicine. The legislative ~~council~~ management and the chairman of the admissions committee at the Kansas state university school of veterinary medicine may select an alternative for each of the designated positions to serve as necessary.
3. The admissions committee shall determine the criteria to be used in the selection of eligible students, with eligible students interested in large animal veterinary medicine receiving a priority.

¹⁸⁴ **SECTION 7. AMENDMENT.** Section 15-11-39 of the North Dakota Century Code is amended and reenacted as follows:

15-11-39. Nursing education consortium - Continuing appropriation.

1. The university of North Dakota college of nursing shall establish and administer a nursing education consortium for the purpose of addressing common concerns in nursing education which produce obstacles in meeting the state's current and future nursing needs, with a focus on the specific needs of rural communities.
2. The consortium membership must include representation of the university of North Dakota college of nursing, the university of North Dakota center for rural health, and the board of nursing. In addition, each nursing program in this state which is approved by the board of nursing and each nursing program with approval pending which is located in this state must be invited to have representation in the consortium. The consortium members may invite interested persons to join the consortium membership or to participate in consortium activities. Interested persons may include the North Dakota nurses association nursing practice council leadership team; North Dakota hospital association; workforce partners, including job service North Dakota, the department of commerce division of workforce development, rural leadership of North Dakota, and the North Dakota workforce development council; employer partners; and other interested public and private parties. The dean of the university of North Dakota college of nursing shall serve as chairman of the consortium from July 1, 2007, through December 31, 2009, during which the dean shall report to the legislative ~~council~~ management. After 2009, the chairman must be chosen by the members.
3. If the consortium secures nonstate funds to cover the capital costs of a mobile clinical nursing simulation laboratory program, the consortium may establish a mobile clinical nursing simulation laboratory program to travel the state and provide clinical education for nursing students of nursing education programs in the state and provide clinical education on current and emerging approaches to nursing excellence to medical facility staff.
4. If the consortium establishes a mobile clinical nursing simulation laboratory program, the consortium shall establish a strategic plan for the ongoing activities of the simulation laboratory program, including goals and benchmarks for the implementation of the simulation laboratory program.
5. The consortium may contract with a third party in conducting the duties of the consortium and may seek, receive, and accept from any source aid or contributions of money, property, labor, or other things of value to be held, used, and applied to carry out the purposes of the consortium. Any money received by the consortium as gifts, grants, or donations is

¹⁸⁴ Section 15-11-39 was also amended by section 1 of Senate Bill No. 2266, chapter 159.

appropriated as a continuing appropriation for the purpose of funding the simulation laboratory program and the activities of the consortium.

SECTION 8. AMENDMENT. Subsection 5 of section 15-39.1-05.2 of the North Dakota Century Code is amended and reenacted as follows:

5. Shall submit to the legislative ~~council's~~ management's employee benefits programs committee any necessary or desirable changes in statutes relating to the administration of the fund.

SECTION 9. AMENDMENT. Subsection 3 of section 15.1-02-13 of the North Dakota Century Code is amended and reenacted as follows:

3. The superintendent of public instruction shall:
 - a. Compile the information required by this section in a manner that allows for accurate comparisons; and
 - b. Forward a copy of the compiled information to the governor and the ~~chairman of the~~ legislative council.

SECTION 10. AMENDMENT. Section 15.1-02-15 of the North Dakota Century Code is amended and reenacted as follows:

15.1-02-15. No Child Left Behind Act - Information required. Whenever the superintendent of public instruction determines that any bill or amendment under consideration by an interim committee of the legislative ~~council~~ management or by a standing committee or a conference committee of the legislative assembly contains a provision required by the No Child Left Behind Act of 2001 [Pub. L. 107-110; 115 Stat. 1425; 20 U.S.C. 6301, et seq.] or by federal regulations promulgated to implement that Act, the superintendent shall provide the members of the appropriate committee with the specific language of the No Child Left Behind Act which sets forth the requirement, together with the statutory citation for that language, or the specific language of the federal regulations which sets forth the requirement, together with the citation for the regulations.

SECTION 11. AMENDMENT. Subsection 3 of section 15.1-06-08 of the North Dakota Century Code is amended and reenacted as follows:

3. If the superintendent of public instruction, after receipt and consideration of an application for a waiver of a rule governing the accreditation of schools under this section approves the waiver, the superintendent shall file a report with a ~~committee designated by~~ the legislative council. The report must cite the accreditation rule that was waived, provide a detailed account of the reasons for which the rule was waived, and state the time period for which the rule was waived. If the superintendent of public instruction denies an application for a waiver under this section, the superintendent shall file a notice of denial with the ~~committee designated by the~~ legislative council. If requested by the ~~chairman of the committee,~~ the superintendent shall appear ~~before the committee~~ and respond to questions regarding the approval or denial of any application for a waiver.

SECTION 12. AMENDMENT. Subsection 4 of section 15.1-06-08.1 of the North Dakota Century Code is amended and reenacted as follows:

4. If the superintendent of public instruction, after receipt and consideration of an application for a waiver under this section, approves the waiver, the superintendent shall file a report with a ~~committee designated by the~~ legislative council. The report must provide a detailed account of the reasons for which the waiver was granted and the specific time period for the waiver. If the superintendent of public instruction denies an application for a waiver under this section, the superintendent shall file a notice of denial with the ~~committee designated by the~~ legislative council. If requested by the ~~chairman of the committee~~, the superintendent shall appear ~~before the committee~~ and respond to questions regarding the approval or denial of any application for a waiver under this section.

SECTION 13. AMENDMENT. Section 15.1-21-10 of the North Dakota Century Code is amended and reenacted as follows:

15.1-21-10. Test scores - Publication. Upon receiving notice that the compilation of test scores has been completed, the superintendent of public instruction shall inform the legislative council. The superintendent shall present the test scores publicly for the first time at a meeting of a legislative committee designated by the legislative ~~council~~ management. At the meeting, the superintendent and representatives of the testing service that created the tests shall provide detailed testimony regarding the testing instrument, the methodology used to test and assess the students, the established cut scores, the methodology used to determine the cut scores, the validation of all test products, and the significance of the test scores.

SECTION 14. AMENDMENT. Section 16.1-01-17 of the North Dakota Century Code is amended and reenacted as follows:

16.1-01-17. Estimated fiscal impact of an initiated measure. At least ninety days before a statewide election at which an initiated measure will be voted upon, the legislative council shall coordinate the determination of the estimated fiscal impact of the initiated measure. Upon notification from the secretary of state that signed petitions have been submitted for placement of an initiated measure on the ballot, the legislative ~~council~~ management shall hold hearings, receive public testimony, and gather information on the estimated fiscal impact of the measure. Each agency, institution, or department shall provide information requested in the format and timeframe prescribed by the legislative council ~~or its designated committee~~ for identifying the estimated fiscal impact of an initiated measure. At least thirty days ~~prior to~~ before the public vote on the measure, the legislative council shall submit a statement of the estimated fiscal impact of the measure to the secretary of state. Upon receipt, the secretary of state shall include a notice within the analysis required by section 16.1-01-07 specifying where copies of the statement of the estimated fiscal impact can be obtained. Within thirty days of the close of the first complete fiscal year after the effective date of an initiated measure approved by the voters, the agencies, institutions, or departments that provided the estimates of the fiscal impact of the measure to the legislative ~~council~~ management under this section shall submit a report to the legislative council on the actual fiscal impact for the first complete fiscal year resulting from provisions of the initiated measure and a comparison to the estimates provided to the legislative ~~council~~ management under this section and the legislative council shall issue a report of the actual fiscal impact of the initiated measure.

SECTION 15. AMENDMENT. Subsection 5 of section 18-11-15 of the North Dakota Century Code is amended and reenacted as follows:

5. With the consent of the governing body of the city involved, upon the advice of its actuary that the pension schedule can be implemented on an actuarially sound basis and notification to the legislative council's management's employee benefits programs committee, and in substitution for the pension payment schedule provided in subsection 1, 3, or 4, a firefighters relief association shall pay a monthly service pension to members of the association with the following qualifications, the following amount:

Years of service	Years of age	Percent of first-class firefighter's monthly salary on January first during year the pension is paid
10	50	20%
11	50	22%
12	50	24%
13	50	26%
14	50	28%
15	50	30%
16	50	32%
17	50	34%
18	50	36%
19	50	38%
20	50	40%
21	51	43%
22	52	46%
23	53	49%
24	54	52%
25	55	55%
26	56	58%
27	57	61%
28	58	64%
29	59	67%
30	60	70%

SECTION 16. AMENDMENT. Section 24-02-46 of the North Dakota Century Code is amended and reenacted as follows:

24-02-46. Multistate highway transportation agreement. The director may join the multistate highway transportation agreement to promote uniformity among participating jurisdictions in vehicle size and weight standards. The legislative council shall review the guidelines for eligible voting members of the cooperating committee formed by the agreement and the legislative management shall appoint a member of the house standing transportation committee and a member of the senate standing transportation committee or their designees as the legislative members representing this state to the cooperating committee formed by the agreement.

SECTION 17. AMENDMENT. Subsection 3 of section 25-01.3-02 of the North Dakota Century Code is amended and reenacted as follows:

3. The appointments and terms of committee members are as follows:
- a. The governor shall appoint two committee members for two-year terms, beginning on August first in each even-numbered year.

- b. The legislative ~~council~~ management shall appoint one member from each house of the legislative assembly for two-year terms, beginning on August first in each odd-numbered year.
- c. The governing board of the arc of North Dakota shall appoint one committee member for a three-year term, beginning August first in each year that is evenly divisible by three.
- d. The governing board of a North Dakota nonprofit advocacy group for people with disabilities shall appoint one committee member for a three-year term, beginning on August first in each year that is divisible by three with a remainder of one. Whenever an appointment to this position is to be made, the other members of the committee shall select a North Dakota nonprofit advocacy group for people with disabilities to make this appointment.
- e. The governing board of the mental health association in North Dakota shall appoint one committee member for a three-year term, beginning on August first in each year that is divisible by three with a remainder of two.

SECTION 18. AMENDMENT. Subsection 3 of section 25-02-01.1 of the North Dakota Century Code is amended and reenacted as follows:

3. The governing body must be composed of the executive director of the department of human services; the director of the division of mental health services of the department, who shall serve as chairman of the governing body; the state hospital superintendent; the state hospital medical director; a representative of the fiscal management of the state hospital; a mental health services consumer selected by the mental health association; and a legislator selected by the legislative ~~council~~ management. The governing body may include other persons as appointed by the governing body.

¹⁸⁵ **SECTION 19. AMENDMENT.** Section 26.1-36.4-06 of the North Dakota Century Code is amended and reenacted as follows:

26.1-36.4-06. Modified community rating. Premium rates for individual policies are subject to the following:

1. For any class of individuals, the premium rates charged during a rating period to the individuals in that class for the same or similar coverage may not vary by a ratio of more than six to one after August 1, 1995, and by a ratio of more than five to one after August 1, 1996, when age, industry, gender, and duration of coverage of the individuals are considered. Gender and duration of coverage may not be used as a rating factor for policies issued after January 1, 1997.

¹⁸⁵ Section 26.1-36.4-06 was also amended by section 1 of House Bill No. 1196, chapter 258.

2. An insurer, in addition to the factors set forth in subsection 1, may use geography, family composition, healthy lifestyles, and benefit variations to determine premium rates.
3. The commissioner shall design and adopt reporting forms to be used by an insurer to report information as to insurer's experience as to insurance provided under this chapter on a periodic basis to determine the impact of the reforms and implementation of modified community rating contained in this chapter and the commissioner shall report to the legislative assembly or a ~~committee designated by~~ the legislative council the findings of the commissioner.

SECTION 20. AMENDMENT. Section 28-32-03 of the North Dakota Century Code is amended and reenacted as follows:

28-32-03. Emergency rules.

1. If the agency, with the approval of the governor, finds that emergency rulemaking is necessary, the agency may declare the proposed rule to be an interim final rule effective on a date no earlier than the date of filing with the legislative council of the notice required by section 28-32-10.
2. A proposed rule may be given effect on an emergency basis under this section if any of the following grounds exists regarding that rule:
 - a. Imminent peril threatens public health, safety, or welfare, which would be abated by emergency effectiveness;
 - b. A delay in the effective date of the rule is likely to cause a loss of funds appropriated to support a duty imposed by law upon the agency;
 - c. Emergency effectiveness is reasonably necessary to avoid a delay in implementing an appropriations measure; or
 - d. Emergency effectiveness is necessary to meet a mandate of federal law.
3. A final rule adopted after consideration of all written and oral submissions respecting the interim final rule, which is substantially similar to the interim final rule, is effective as of the declared effective date of the interim final rule.
4. The agency's finding, and a brief statement of the agency's reasons for the finding, must be filed with the ~~office of the~~ legislative council with the final adopted emergency rule.
5. The agency shall take appropriate measures to make interim final rules known to every person who may be affected by them.
6. An interim final rule is ineffective one hundred eighty days after its declared effective date unless first adopted as a final rule.

SECTION 21. AMENDMENT. Section 28-32-06 of the North Dakota Century Code is amended and reenacted as follows:

28-32-06. Force and effect of rules. Upon becoming effective, rules have the force and effect of law until amended or repealed by the agency, declared invalid by a final court decision, suspended or found to be void by the administrative rules committee, or determined repealed by the ~~office of the~~ legislative council because the authority for adoption of the rules is repealed or transferred to another agency.

SECTION 22. AMENDMENT. Section 28-32-07 of the North Dakota Century Code is amended and reenacted as follows:

28-32-07. Deadline for rules to implement statutory change. Any rule change, including a creation, amendment, or repeal, made to implement a statutory change must be adopted and filed with the ~~office of the~~ legislative council within nine months of the effective date of the statutory change. If an agency needs additional time for the rule change, a request for additional time must be made to the legislative council. The legislative council may extend the time within which the agency must adopt the rule change if the request by the agency is supported by evidence that the agency needs more time through no deliberate fault of its own.

SECTION 23. AMENDMENT. Subsection 1 of section 28-32-10 of the North Dakota Century Code is amended and reenacted as follows:

1. An agency shall prepare a full notice and an abbreviated notice of rulemaking.
 - a. The agency's full notice of the proposed adoption, amendment, or repeal of a rule must include a short, specific explanation of the proposed rule and the purpose of the proposed rule, a determination of whether the proposed rulemaking is expected to have an impact on the regulated community in excess of fifty thousand dollars, identify at least one location where interested persons may review the text of the proposed rule, provide the address to which written comments concerning the proposed rule may be sent, provide the deadline for submission of written comments, provide a telephone number at which a copy of the rules and regulatory analysis may be requested, and, in the case of a substantive rule, provide the time and place set for each oral hearing. The agency's full notice must be filed with the ~~office of the~~ legislative council, and the agency shall request publication of an abbreviated newspaper publication notice at least once in each official county newspaper published in this state. The notice filed with the ~~office of the~~ legislative council must be accompanied by a copy of the proposed rules.
 - b. The abbreviated newspaper publication of notice must be in a display-type format with a minimum width of one column of approximately two inches [5.08 centimeters] and a depth of from three inches [7.62 centimeters] to four inches [10.16 centimeters] with a headline describing the general topic of the proposed rules. The notice must also include the telephone number or address to use to obtain a copy of the proposed rules, the address to use and the deadline to submit written comments, and the location, date, and time of the public hearing on the rules.

¹⁸⁶ **SECTION 24. AMENDMENT.** Section 28-32-15 of the North Dakota Century Code is amended and reenacted as follows:

28-32-15. Filing of rules for publication - Effective date of rules.

1. A copy of each rule adopted by an administrative agency, a copy of each written comment and a written summary of each oral comment on the rule, and the attorney general's opinion on the rule must be filed by the adopting agency with the ~~office of the~~ legislative council for publication of the rule in the North Dakota Administrative Code.
2. a. Nonemergency rules approved by the attorney general as to legality, adopted by an administrative agency, and filed with the ~~office of the~~ legislative council and not voided or held for consideration by the administrative rules committee become effective according to the following schedule:
 - (1) Rules filed with the legislative council from August sixteenth through November fifteenth become effective on the immediately succeeding January first.
 - (2) Rules filed with the legislative council from November sixteenth through February fifteenth become effective on the immediately succeeding April first.
 - (3) Rules filed with the legislative council from February sixteenth through May fifteenth become effective on the immediately succeeding July first.
 - (4) Rules filed with the legislative council from May sixteenth through August fifteenth become effective on the immediately succeeding October first.
- b. If publication is delayed for any reason other than action of the administrative rules committee, nonemergency rules, unless otherwise provided, become effective when publication would have occurred but for the delay.
- c. A rule held for consideration by the administrative rules committee becomes effective on the first effective date of rules under the schedule in subdivision a following the meeting at which that rule is reconsidered by the committee.

SECTION 25. AMENDMENT. Section 28-32-17 of the North Dakota Century Code is amended and reenacted as follows:

28-32-17. Administrative rules committee objection. If the legislative ~~council's~~ management's administrative rules committee objects to all or any portion of a rule because the committee deems it to be unreasonable, arbitrary, capricious, or beyond the authority delegated to the adopting agency, the committee may file

¹⁸⁶ Section 28-32-15 was also amended by section 1 of Senate Bill No. 2026, chapter 277.

that objection in certified form ~~in the office of~~ with the legislative council. The filed objection must contain a concise statement of the committee's reasons for its action.

1. The ~~office of the~~ legislative council shall attach to each objection a certification of the time and date of its filing and, as soon as possible, shall transmit a copy of the objection and the certification to the agency adopting the rule in question. The ~~office of the~~ legislative council also shall ~~also~~ maintain a permanent register of all committee objections.
2. The ~~office of the~~ legislative council shall publish an objection filed pursuant to this section in the next issue of the code supplement. In case of a filed committee objection to a rule subject to the exceptions of the definition of rule in section 28-32-01, the agency shall indicate the existence of that objection adjacent to the rule in any compilation containing that rule.
3. Within fourteen days after the filing of a committee objection to a rule, the adopting agency shall respond in writing to the committee. After receipt of the response, the committee may withdraw or modify its objection.
4. After the filing of a committee objection, the burden of persuasion is upon the agency in any action for judicial review or for enforcement of the rule to establish that the whole or portion thereof objected to is within the procedural and substantive authority delegated to the agency. If the agency fails to meet its burden of persuasion, the court shall declare the whole or portion of the rule objected to invalid and judgment must be rendered against the agency for court costs. These court costs must include a reasonable attorney's fee and must be payable from the appropriation of the agency which adopted the rule in question.

SECTION 26. AMENDMENT. Section 28-32-18 of the North Dakota Century Code is amended and reenacted as follows:

28-32-18. Administrative rules committee may void rule - Grounds - Amendment by agreement of agency and committee.

1. The legislative ~~council's~~ management's administrative rules committee may find that all or any portion of a rule is void if that rule is initially considered by the committee not later than the fifteenth day of the month before the date of the administrative code supplement in which the rule change is scheduled to appear. The administrative rules committee may find a rule or portion of a rule void if the committee makes the specific finding that, with regard to that rule or portion of a rule, there is:
 - a. An absence of statutory authority.
 - b. An emergency relating to public health, safety, or welfare.
 - c. A failure to comply with express legislative intent or to substantially meet the procedural requirements of this chapter for adoption of the rule.
 - d. A conflict with state law.
 - e. Arbitrariness and capriciousness.

- f. A failure to make a written record of its consideration of written and oral submissions respecting the rule under section 28-32-11.
2. The administrative rules committee may find a rule void at the meeting at which the rule is initially considered by the committee or may hold consideration of that rule for one subsequent meeting. Within three business days after the administrative rules committee finds that a rule is void, the ~~office of the~~ legislative council shall provide written notice of that finding and the committee's specific finding under subdivisions a through f of subsection 1 to the adopting agency and to the chairman of the legislative ~~council management~~. Within fourteen days after receipt of the notice, the adopting agency may file a petition with the chairman of the legislative ~~council management~~ for review by the legislative ~~council management~~ of the decision of the administrative rules committee. If the adopting agency does not file a petition for review, the rule becomes void on the fifteenth day after the notice from the ~~office of the~~ legislative council to the adopting agency. If within sixty days after receipt of the petition from the adopting agency the legislative ~~council management~~ has not disapproved by motion the finding of the administrative rules committee, the rule is void.
3. An agency may amend or repeal a rule or create a related rule if, after consideration of rules by the administrative rules committee, the agency and committee agree that the rule amendment, repeal, or creation is necessary to address any of the considerations under subsection 1. A rule amended, repealed, or created under this subsection is not subject to the other requirements of this chapter relating to adoption of administrative rules and may be published by the legislative council as amended, repealed, or created. If requested by the agency or any interested party, a rule amended, repealed, or created under this subsection must be reconsidered by the administrative rules committee at a subsequent meeting at which public comment on the agreed rule change must be allowed.

SECTION 27. AMENDMENT. Section 28-32-19 of the North Dakota Century Code is amended and reenacted as follows:

28-32-19. Publication of administrative code and code supplement.

1. The ~~office of the~~ legislative council shall compile, index, and publish all rules filed pursuant to this chapter in a publication which must be known as the North Dakota Administrative Code, in this chapter referred to as the code. The code also must ~~also~~ contain all objections filed with the ~~office of the~~ legislative council by the administrative rules committee pursuant to section 28-32-17. ~~The code must be printed or otherwise duplicated in looseleaf form.~~ The ~~office of the~~ legislative council shall revise all or part of the code as often as the legislative council ~~deems~~ determines necessary.
2. The ~~office of the~~ legislative council may prescribe a format, style, and arrangement for rules which are to be published in the code and may refuse to accept the filing of any rule that is not in substantial compliance therewith. In arranging rules for publication, the ~~office of the~~ legislative council may make such corrections in spelling, grammatical construction, format, and punctuation of the rules as ~~deemed~~ determined proper. The ~~office of the~~ legislative council shall keep and

maintain a permanent code of all rules filed, including superseded and repealed rules, which must be open to public inspection during office hours.

3. The ~~office of the~~ legislative council shall compile and publish the North Dakota Administrative Code supplement according to the schedule of effective dates of rules in section 28-32-15.
 - a. The code supplement must contain all rules that have been filed with the ~~office of the~~ legislative council or which have become effective since the compilation and publication of the preceding issue of the code supplement.
 - b. The code supplement must contain all objections filed with the ~~office of the~~ legislative council by the administrative rules committee pursuant to section 28-32-17.
 - c. ~~The code supplement must be printed or duplicated in the same style as the code so as to permit changes to be inserted as pages in the code in lieu of the pages containing superseded material and to permit additions to the code.~~
4. The ~~office of the~~ legislative council, with the consent of the adopting agency, may omit from the code or code supplement any rule the publication of which would be unduly cumbersome, expensive, or otherwise inexpedient, if the rule in printed or duplicated form is made available on application to the agency, and if the code or code supplement contains a notice stating the general subject matter of the omitted rule and stating how a copy may be obtained.
5. The code must be arranged, indexed, and printed or duplicated in a manner to permit separate publication of portions thereof relating to individual agencies. An agency may print as many copies of such separate portions of the code as it may require. If the ~~office of the~~ legislative council does not publish the code supplement due to technological problems or lack of funds, the agency whose rules would have been published in the code supplement shall provide a copy of the rules to any person upon request. The agency may charge a fee for a copy of the rules as allowed under section 44-04-18.

SECTION 28. AMENDMENT. Section 28-32-20 of the North Dakota Century Code is amended and reenacted as follows:

28-32-20. Printing, sales, and distribution of code and code supplement.

1. The secretary of state shall distribute the code and code supplement and shall distribute copies of the code, revisions, and the code supplement without charge to the following:
 - a. Governor, one copy.
 - b. Attorney general, one copy.
 - c. Each supreme court judge, one copy.
 - d. Each district court judge, one copy.

- e. Each county auditor of this state, for the use of county officials and the public, one copy.
 - f. Supreme court library, one copy.
 - g. State library, one copy.
 - h. Law library of the university of North Dakota, one copy.
 - i. Each of the five depository libraries in this state, one copy, upon request.
 - j. Secretary of state, one copy.
 - k. Legislative council, four copies.
 - l. Each member of the legislative assembly, one copy, upon request.
2. The ~~office of the~~ legislative council, each county auditor in the state, and the librarians for the supreme court library, the state library, the university of North Dakota law library, and the five depository libraries as designated according to subsection 1 and section 54-24-09 shall maintain a complete, current set of the code, including revisions and the code supplement.
 3. The secretary of state shall make copies of and subscriptions to the code and code supplement available to any person upon payment of the appropriate subscription fee.
 4. The ~~office of the~~ legislative council shall determine the appropriate fee for subscribing to the code and code supplement.
 5. All fees collected by the secretary of state must be deposited in the general fund of the state treasury.
 6. ~~The~~ If applicable, the administrative code, revisions to the administrative code, and the code supplement must be considered sixth-class printing under sections 46-02-04 and 46-02-09.

SECTION 29. AMENDMENT. Subsection 3 of section 34-11.1-01 of the North Dakota Century Code is amended and reenacted as follows:

3. "Employee" means any person, whether employed, appointed, or under contract, providing services for the state, county, city, or other political subdivision, for which compensation is paid. "Employee" also includes a person subject to the civil service or merit system or civil service laws of the state government, governmental agency, or a political subdivision. "Employee" does not include:
 - a. A person elected to public office in the state or in a political subdivision.
 - b. A member of the legislative council ~~staff~~.
 - c. A person holding an appointive statutory office.

- d. One deputy or principal assistant for each elected official or appointive statutory official.
- e. One secretary for each elected or appointive statutory official.
- f. All members of the governor's staff.

¹⁸⁷ **SECTION 30. AMENDMENT.** Subsection 2 of section 40-63-03 of the North Dakota Century Code is amended and reenacted as follows:

2. The department of commerce division of community services shall:
 - a. Review all applications for renaissance zone designation against the criteria established in this section and designate zones.
 - b. Approve or reject the duration of renaissance zone status as submitted in an application.
 - c. Approve or reject the geographic boundaries and total area of the renaissance zone as submitted in an application.
 - d. Promote the renaissance zone program.
 - e. Monitor the progress of the designated renaissance zones against submitted plans in an annual plan review.
 - f. Report on renaissance zone progress to the governor and the legislative council ~~management~~ on an annual basis until all designated zones expire.

SECTION 31. AMENDMENT. Section 44-04-18.6 of the North Dakota Century Code is amended and reenacted as follows:

44-04-18.6. Access to legislative records and information. The following records, regardless of form or characteristic, of or relating to the legislative council, ~~the legislative management~~, the legislative assembly, the house of representatives, the senate, or a member of the legislative assembly are not subject to section 44-04-18 and section 6 of article XI of the Constitution of North Dakota: a record of a purely personal or private nature, a record that is ~~attorney~~ legislative council work product or is ~~attorney-client~~ legislative council-client communication, a record that reveals the content of private communications between a member of the legislative assembly and any person, and, except with respect to a governmental entity determining the proper use of telephone service, a record of telephone usage which identifies the parties or lists the telephone numbers of the parties involved. This section does not apply to any record distributed at a meeting subject to section 44-04-19 and section 5 of article XI of the Constitution of North Dakota.

SECTION 32. AMENDMENT. Section 48-08-04 of the North Dakota Century Code is amended and reenacted as follows:

¹⁸⁷ Section 40-63-03 was also amended by section 1 of House Bill No. 1428, chapter 354, and section 2 of Senate Bill No. 2060, chapter 353.

48-08-04. Use of legislative assembly rooms and halls. During the interim between legislative sessions, the committee rooms, halls, passageways, and other space in the capitol used by the legislative assembly may not be used without authorization of the legislative council ~~or its designee~~.

SECTION 33. AMENDMENT. Section 48-10-01 of the North Dakota Century Code is amended and reenacted as follows:

48-10-01. Capitol grounds planning commission. The capitol grounds planning commission consists of the lieutenant governor as chairman and eight other members selected biennially as provided in this section. The governor shall appoint two citizens, one licensed architect, and one representative from the state historical society as members, the president of the senate shall appoint two senators as members, and the speaker of the house of representatives shall appoint two representatives as members. Appointment to the commission is for a term of two years. Legislative and citizen members of the planning commission are entitled to per diem payments and expenses in such amount and in the same manner as provided by law for members of the legislative ~~council~~ management.

SECTION 34. AMENDMENT. Subsection 4 of section 49-23-03 of the North Dakota Century Code is amended and reenacted as follows:

4. A nonprofit corporation shall govern the notification center. The initial incorporators of the corporation may solicit bids for any services provided for the operation of the center. The corporation shall provide advance notice of the first organizational meeting by publication in qualified legal newspapers and in appropriate trade journals and by written notice to all appropriate trade associations.
 - a. The nonprofit corporation must be incorporated by seventeen initial incorporators, with one member representing the house of representatives and one member representing the senate appointed by the legislative ~~council~~ management, one member representing telecommunications companies offering local exchange service to fewer than fifty thousand subscribers, one member representing telecommunications companies offering local exchange service to fifty thousand or more subscribers, one member representing rural water systems, one member representing rural electric cooperatives, one member representing investor-owned electric utilities, one member representing investor-owned natural gas utilities, one member representing cable television systems, one member representing cities with a population of fewer than five thousand, one member representing cities with a population of at least five thousand, one member representing counties, one member representing underground interstate carriers of gas, one member representing interstate carriers of petroleum, one member representing interstate carriers of telecommunications services, one member representing contractors who perform excavation services, and one member representing the production sector of the American petroleum institute. The initial incorporators must represent and be designated by operators, excavators, and other persons eligible to participate in the center. The legislative members are entitled to the same compensation and expenses as provided for members of committees of the legislative ~~council~~ management. The legislative council shall pay the compensation for the legislative members.

- b. The initial incorporators shall establish, before August 1, 1996, a board of directors of the nonprofit corporation which consists of eight members representing the participants in the center. The board shall establish a competitive bidding procedure to select a vendor to provide the notification service, establish a procedure by which members of the center share the costs of the center on a fair, reasonable, and nondiscriminatory basis, and do all other things necessary to implement the purpose of the center. Any agreement between the center and a vendor for the notification service may be modified from time to time by the board, and any agreement shall be reviewed by the board at least once every three years, with an opportunity to receive new bids, if desired, by the board. An operator may submit a bid and be selected to contract to provide the notification center service.
- c. Members of the board and any of its agents are immune from any liability of any kind based on any acts or omissions in the course of the performance of responsibilities in an official capacity except for bodily injury arising out of accidents caused by or contributed to by the negligence of the board member or agent.
- d. The board shall aid the state's attorneys of the various counties in the enforcement of this chapter and the prosecution of any violations. The board may institute a civil action for an injunction to enjoin violations of this chapter without proof that anyone suffered actual damages.
- e. The notification center must be in operation by March 1, 1998.

¹⁸⁸ **SECTION 35. AMENDMENT.** Subsections 3 and 4 of section 50-09-29 of the North Dakota Century Code are amended and reenacted as follows:

3. If the department of human services determines, subject to the approval of the legislative ~~council~~ management, that there is insufficient worker opportunity, due to increases in the unemployment rate, to participate in work activities, the department may administer the temporary assistance for needy families program in a manner different than provided in subsection 1.
4. If the department of human services determines, subject to the approval of the legislative ~~council~~ management, that administration of the temporary assistance for needy families program, in the manner provided by subsection 1, causes otherwise eligible individuals to become a charge upon the counties under chapter 50-01, the department may administer the program in a manner that avoids that result.

SECTION 36. AMENDMENT. Section 52-02-18 of the North Dakota Century Code is amended and reenacted as follows:

¹⁸⁸ Section 50-09-29 was also amended by section 1 of Senate Bill No. 2260, chapter 522.

52-02-18. Independent performance audit. The state auditor ~~shall~~, upon request of the legislative audit and fiscal review committee, shall cause a performance audit of job service North Dakota to be conducted within twelve months after receipt of the request. The state auditor may appoint an independent audit firm, with extensive expertise in job service practices and standards, to complete a performance audit or the state auditor may conduct the performance audit. If the state auditor completes the audit, the state auditor may contract with a consulting firm to aid in the state audit or to complete the audit and shall charge job service North Dakota for the audit, including the services of the consulting firm. The executive director of job service North Dakota and the auditor shall present the audit report and any action taken as a result of the audit to the ~~legislative council's~~ legislative audit and fiscal review committee and to the house and senate industry, business and labor standing committees during the next regular session of the legislative assembly following the audit.

SECTION 37. AMENDMENT. Section 54-03-02 of the North Dakota Century Code is amended and reenacted as follows:

54-03-02. When legislative assembly meets.

1. The legislative assembly shall meet at the seat of government in the month of December following the election of the members thereof for organizational and orientation purposes and shall thereafter recess until the time provided in subsection 2.
2. The legislative assembly shall reconvene at twelve noon on the first Tuesday after the third day in January of the year following the organizational session as provided in subsection 1 or at twelve noon on a date selected by the legislative ~~council~~ management but not earlier than January second nor later than January eleventh of the year following the organizational session and, following the close of business of the regular session, shall adjourn subject to subsection 3.
3. Notwithstanding a motion to adjourn sine die, the legislative assembly shall reconvene as determined by the legislative ~~council~~ management. The number of natural days used may not exceed the number of natural days available under the constitution which have not been previously used by that legislative assembly in regular session under subsection 2.

SECTION 38. AMENDMENT. Section 54-03-04 of the North Dakota Century Code is amended and reenacted as follows:

54-03-04. Organizational session - Calling to order - Officers - Term of office - Officers and chairmen to remain in office during special session. The secretary and officers of the senate and chief clerk and officers of the house serving at the close of a regular session, unless otherwise removed, shall remain in office until the first day of the organizational session. On the first day of the organizational session, at a time scheduled by the legislative ~~council~~ management pursuant to section 54-03.1-02, the president of the senate and the speaker of the house from the previous session, if reelected, or in the speaker's absence a member of the majority party of the house with seniority based upon terms of service in the house, shall call the members of their respective houses so enrolled to order. In the absence of the president of the senate, the president pro tempore shall call the members of the senate to order. In the absence of both the president of the senate and the president pro tempore, then some member or other person selected by the members present shall call the members of the senate to order. If the speaker of the

house from the previous session is not reelected and if no party has a majority in the house, the member of the house with seniority based upon terms of service in the house shall call the house to order. If two or more members of the house are tied for seniority and seniority is a factor in determining who shall call the house to order, the persons so tied for seniority shall draw lots to determine who shall call the house to order. The members of the respective houses then may proceed to the election of the necessary officers. The secretary and officers of the senate and chief clerk and officers of the house of representatives, and the chairmen of all procedural and substantive standing legislative committees shall continue to serve in those positions during any special legislative session which may be called, except in case of the death, resignation, or removal of one of those persons, whereupon the position must be filled, upon the convening of the special session, in the manner provided by law or legislative rule. Members serving on procedural or substantive standing committees of the senate or house during a regular session shall continue to serve on those committees during any special legislative session which may be called following that regular session.

SECTION 39. AMENDMENT. Section 54-03-19.2 of the North Dakota Century Code is amended and reenacted as follows:

54-03-19.2. Meetings - Powers and duties - Expenses. The commission shall meet at the call of the chairman as often as may be necessary, but at least once during each biennium. The commission shall determine levels of legislative compensation, expense allowance, and insurance benefits to be paid for service upon interim committees and during legislative sessions, which permit citizens to hold legislative office without undue financial sacrifice or disadvantage. In formulating recommendations, the commission may consult with the leadership of the legislative assembly, and review compensation, expense allowance, and insurance benefits for legislative service in other states and in other areas of state and federal service and private industry. The commission shall report its findings and recommendations regarding legislative compensation policy to the legislative assembly. The commission may file with the legislative council a bill incorporating its recommendations. Members of the legislative compensation commission must be compensated for time spent in attendance at meetings of the commission and for other travel as approved by the chairman of the legislative ~~council~~ management at the rate of sixty-two dollars and fifty cents per day and must be reimbursed for their actual and necessary expenses incurred in the same manner as other state officials. The expense allowance must be paid from appropriations then in effect for the legislative assembly. The commission may solicit the assistance of the ~~staff of the~~ legislative council to provide information, aid, and assistance in carrying out its duties.

¹⁸⁹ **SECTION 40. AMENDMENT.** Subsection 2 of section 54-03-20 of the North Dakota Century Code is amended and reenacted as follows:

¹⁸⁹ Section 54-03-20 was also amended by section 97 of House Bill No. 1436, chapter 482, section 9 of Senate Bill No. 2001, chapter 29, section 10 of Senate Bill No. 2001, chapter 29, section 2 of Senate Bill No. 2064, chapter 386, section 3 of Senate Bill No. 2064, chapter 386, section 4 of Senate Bill No. 2064, chapter 386, section 5 of Senate Bill No. 2064, chapter 386, and section 6 of Senate Bill No. 2064, chapter 386.

2. a. Each member of the legislative assembly is entitled to receive reimbursement for lodging, which may not exceed a maximum of nine hundred dollars per calendar month for lodging in state, at the rates and in the manner provided in section 44-08-04 for each calendar day during the period of any organizational, special, or regular session.
- b. Notwithstanding subdivision a:
 - (1) A member of the legislative assembly may elect to be reimbursed for less than the amount to which the legislator is entitled under this subsection by claiming the lesser amount on a voucher submitted with the receipt required by section 44-08-04.
 - (2) The legislative ~~council~~ management may establish guidelines that may result in a reduced maximum reimbursement for a single dwelling in which two or more legislators share lodging and the total rent for that dwelling exceeds the amount to which a legislator is entitled under subdivision a.

¹⁹⁰ **SECTION 41. AMENDMENT.** Section 54-03-26 of the North Dakota Century Code is amended and reenacted as follows:

54-03-26. Personal computers and associated software used by legislators - Fee - Continuing appropriation. Notwithstanding any other provision of law, a member of the legislative assembly who is assigned a computer may use that computer and its associated equipment and software for any use that is not in violation of section 16.1-10-02 upon payment of a computer usage fee established by the legislative ~~council~~ management.

SECTION 42. AMENDMENT. Section 54-03-27 of the North Dakota Century Code is amended and reenacted as follows:

54-03-27. Service in the legislative assembly - Leave of absence from employment. The executive officer in charge of a state agency, department, or institution or the governing body of any political subdivision or any other employer in this state may grant a leave of absence from employment to a full-time employee of that governmental entity or of that employer who is a member of the legislative assembly for service during any regular or special session of the legislative assembly and for attendance at a meeting of the legislative ~~council~~ management or any of its committees. The leave of absence may be without pay, and the employer may reduce or eliminate the payment of any additional benefits normally due the employee while the employee is performing legislative service. If the leave of absence is granted, the employer may not terminate the employment of an employee solely due to the fact that the employee is absent from employment as the result of service in the legislative assembly.

¹⁹⁰ Section 54-03-26 was also amended by section 1 of House Bill No. 1178, chapter 457.

SECTION 43. AMENDMENT. Section 54-03.1-02 of the North Dakota Century Code is amended and reenacted as follows:

54-03.1-02. Time and place of meeting - Who must attend. In each even-numbered year on the first Monday in the month of December or on a date selected by the legislative ~~council~~ management but not earlier than December first nor later than December fifteenth, all persons elected at the previous November general election as members of the succeeding legislative session, and members whose terms do not expire until the first day of December following the next November general election, shall meet in the state capitol in the city of Bismarck, or at such other place as may be designated, at a time designated by the legislative ~~council~~ management for the purpose of conducting an organizational session. The legislative ~~council~~ management shall call the organizational session and the legislative council shall make such arrangements as may be necessary for ~~its~~ operation of the session.

SECTION 44. AMENDMENT. Section 54-03.2-02 of the North Dakota Century Code is amended and reenacted as follows:

54-03.2-02. Definitions. As used in this code:

1. "Hearing" means any meeting in the course of an investigatory proceeding, other than a preliminary conference or interview at which no testimony is taken under oath, conducted by an investigating committee for the purpose of taking testimony or receiving other evidence. A hearing may be open to the public or closed to the public.
2. "Investigating committee" means any of the following:
 - a. A standing or select committee of either house of the legislative assembly.
 - b. A joint committee of both houses.
 - c. An authorized subcommittee of a legislative committee.
 - d. The legislative ~~council~~ management and any interim committee of the ~~council~~ legislative management if specifically designated by the ~~council~~ legislative management as an investigating committee with subpoena powers.
 - e. Any other body created by law, the members of which may include nonlegislators.

Investigating committees ~~shall~~ have the power to issue subpoenas and subpoenas duces tecum in the manner provided for in section 54-03.2-08. Nothing in this chapter may be construed as in derogation of any power to issue subpoenas which is inherent in the legislative assembly or any of its committees.

3. "Public hearing" means any hearing open to the public or the proceedings of which are made available to the public.

SECTION 45. AMENDMENT. Section 54-05.1-02 of the North Dakota Century Code is amended and reenacted as follows:

54-05.1-02. Applicability - Meaning of lobbyist.

1. This chapter applies to any person who, in any manner whatsoever, directly or indirectly, performs any of the following activities:
 - a. Attempts to secure the passage, amendment, or defeat of any legislation by the legislative assembly or the approval or veto of any legislation by the governor of the state.
 - b. Attempts to influence decisions made by the legislative ~~council~~ management or by an interim committee of the legislative ~~council~~ management.
2. This chapter does not apply to any person who is:
 - a. A legislator.
 - b. A private citizen appearing on the citizen's own behalf.
 - c. An employee, officer, board member, volunteer, or agent of the state or its political subdivisions whether elected or appointed and whether or not compensated, who is acting in that person's official capacity.
 - d. Invited by the chairman of the legislative ~~council~~ management, an interim committee of the legislative ~~council~~ management, or a standing committee of the legislative assembly to appear before the ~~council~~ legislative management, interim committee, or standing committee for the purpose of providing information.
 - e. An individual who appears before a legislative committee for the sole purpose of presenting testimony on behalf of a trade or professional organization or a business or industry if the individual is introduced to the committee by the registered lobbyist for the trade or professional organization or the business or industry.
3. For the purposes of this chapter, persons required to register under this chapter because of the performance of the activities described in subsection 1 must be known as "lobbyists".

¹⁹¹ **SECTION 46. AMENDMENT.** Subsections 3 and 4 of section 54-06-25 of the North Dakota Century Code are amended and reenacted as follows:

3. The commission shall meet at the call of the chairman as often as may be necessary, but at least once during each year of the biennium. The commission shall consider proper levels of compensation and fringe benefits for state employees and make its recommendations on these issues to the governor in time for consideration in preparation of the executive budget to be submitted to the next legislative assembly. The commission shall also submit its recommendations to the legislative

¹⁹¹ Section 54-06-25 was also amended by section 97 of House Bill No. 1436, chapter 482.

~~council management~~ at the biennial meeting at which the legislative ~~council management~~ receives the reports of its interim committees.

4. The members of the legislative assembly who are commission members are entitled to receive compensation from the legislative council for each day in attendance at commission meetings in the same manner as provided for members of the legislative ~~council management~~ and reimbursement from the legislative council for travel and other necessary expenses incurred in performing commission duties in the amounts provided for state employees under section 54-06-09. The state employee members of the commission are entitled to receive reimbursement for necessary expenses incurred in attending commission meetings at the rates provided for state employees under section 54-06-09 and may not be assessed any annual leave or loss of salary for attendance at meetings of the commission. The employing agency of state employee members shall pay their expenses.

¹⁹² **SECTION 47. AMENDMENT.** Section 54-06-31 of the North Dakota Century Code is amended and reenacted as follows:

54-06-31. State employee recruitment and retention bonus programs - Criteria - Limitations. State agencies may develop programs to provide bonuses to recruit or retain employees in hard-to-fill occupations.

1. State agencies may pay recruitment and retention bonuses under this section only if:
 - a. The agency has a written policy in place identifying eligible positions or occupations and provisions for providing and receiving bonuses;
 - b. The agency has filed a copy of the written policy with the North Dakota human resource management services; and
 - c. The agency reports to the North Dakota human resource management services each bonus provided to an employee under the program.
2. State agencies must fund bonus programs from within the agency salaries and wages budget.
3. The North Dakota human resource management services shall report periodically ~~report~~ to a legislative committee designated by the legislative ~~council management~~ on the implementation, progress, and bonuses provided under agency recruitment and retention bonus programs.
4. Bonuses paid under this section are not fiscal irregularities under section 54-14-03.1.

¹⁹² Section 54-06-31 was also amended by section 1 of House Bill No. 1031, chapter 459.

SECTION 48. AMENDMENT. Section 54-35-01 of the North Dakota Century Code is amended and reenacted as follows:

54-35-01. Council Legislative management - Created - Members - Vacancy - Terms. The North Dakota legislative council, in this chapter referred to as the legislative council or the council, management consists of the majority and minority leaders of the house and of the senate plus six senators and seven representatives chosen biennially before the close of each regular legislative session. In the house of representatives the speaker of the house shall appoint to the council legislative management four members recommended by the majority leader and three members recommended by the minority leader, except that the speaker must by virtue of office be one of the four members appointed from the speaker's faction. In the senate the lieutenant governor shall appoint to the council legislative management four members recommended by the majority leader and two members recommended by the minority leader. Any vacancy occurring when the legislative assembly is not in session must be filled by the selection of another member of the legislative assembly belonging to the same faction as the member originally appointed, the selection to be made by the remaining senate or house members of the council legislative management, depending upon which body has the vacancy. Each senator and each representative chosen to serve on the council legislative management shall serve until a new council legislative management has been selected at the next regular legislative session; provided, however, that no senator, not a holdover, who is not reelected to the senate, and no representative, who is not reelected to the house of representatives, may serve as a member of the council legislative management beyond the closing day of the term to which elected. Any vacancy occurring because any member of the council legislative management is not reelected must be filled for the period from the beginning of the session until a new council legislative management is selected, in the same manner as the original council legislative management is selected.

SECTION 49. AMENDMENT. Section 54-35-02 of the North Dakota Century Code is amended and reenacted as follows:

54-35-02. Powers and duties. In addition to the other applicable provisions of this chapter, the council legislative management has the following powers and duties:

1. To study, consider, accumulate, compile, and assemble information on any subject upon which the legislative assembly may legislate, and upon such subjects as the legislative assembly may by concurrent or joint resolution authorize or direct, or any subject requested by a member of the legislative assembly; provided, that the council legislative management may screen and prioritize studies assigned by concurrent or joint resolution to maintain its workload within the limitations of time and legislative appropriations.
2. To collect information concerning the government and general welfare of the state and of its political subdivisions.
3. To study and consider important issues of public policy and questions of general interest.
4. To study and promote uniformity of legislation in the United States upon subjects upon which uniformity is desirable and to confer with the commissioners or similar groups appointed for the same purpose by any other state in drafting uniform laws to be submitted for the approval and

adoption by the several states and through such member or members or council staff persons as the council may appoint to meet annually with the conference of commissioners on uniform state laws for the promotion of uniformity of legislation in the United States and join with it in such measures as may be deemed most expedient to advance the objects of such conference. The council shall receive, review, and make recommendations on uniform and model laws recommended to it by the state commission on uniform state laws.

5. To prepare proposed bills and resolutions for consideration of the succeeding legislative assembly.
6. To call to its assistance other members of the legislative assembly, and it may create committees consisting of its own members, or one or more of its own members and one or more other members of the legislative assembly and delegate by written resolution to such committees such of its powers and rights as it may deem advisable. Committees of the council legislative management may also include nonlegislator members. Any member of the legislative assembly has the right to attend any meeting of the council legislative management and may present that member's views on any subject which the council legislative management may at any particular time be considering.
7. To issue subpoenas or subpoenas duces tecum in the manner provided in sections 54-03.2-08 and 54-03.2-09. Committees of the council legislative management may issue subpoenas and subpoenas duces tecum in the same manner if specifically authorized by the council legislative management. Failure to obey a subpoena issued by the council legislative management, or one of its committees, is contempt.
8. To control the use of the legislative chambers and permanent displays in memorial hallway. Guidelines may be established pursuant to this subsection and the legislative council, ~~or its designee~~, shall administer any guidelines ~~which that~~ are established.
9. To determine access to legislative information services and impose fees for providing legislative information services and copies of legislative documents. This authority may not be exercised in a manner that contravenes access to legislative documents as otherwise provided by law.

SECTION 50. AMENDMENT. Section 54-35-02.1 of the North Dakota Century Code is amended and reenacted as follows:

54-35-02.1. Legislative audit and fiscal review committee. For the purposes of studying and reviewing the financial transactions of this state; to assure the collection and expenditure of its revenues and moneys in compliance with law and legislative intent and sound financial practices; and to provide the legislative assembly with formal, objective information on revenue collections and expenditures for a basis of legislative action to improve the fiscal structure and transactions of this state, the legislative council management shall ~~create a division of the budget section of the legislative council entitled~~ appoint the legislative audit and fiscal review committee. The members of the committee must be appointed in the same manner as other members of legislative council interim committees of the legislative management.

SECTION 51. AMENDMENT. Section 54-35-02.2 of the North Dakota Century Code is amended and reenacted as follows:

54-35-02.2. Powers and duties of the legislative audit and fiscal review committee. ~~It is the duty of the~~ The legislative audit and fiscal review committee ~~to~~ shall study and review audit reports as selected by the committee from those submitted by the state auditor, confer with the auditor and deputy auditors in regard to such reports, and when necessary, ~~to~~ confer with representatives of the department, agency, or institution audited in order to obtain full and complete information in regard to any and all fiscal transactions and governmental operations of any department, agency, or institution of the state. Each department, agency, or institution shall furnish to the committee such aid, information, and assistance in regard to fiscal transactions and governmental operations as it may from time to time request. Whenever the committee may determine or have reason to believe that there may have been a violation of law relating to the receipt, custody, or expenditure of public funds by any state officer or employee, the committee shall present such evidence or information as may be in its possession to the attorney general. The attorney general shall receive and accept such evidence or information and shall immediately commence such additional investigation as the attorney general ~~deems~~ determines necessary. Upon completion of the investigation, if the evidence supplied by the committee and through the investigation indicates the probability of a violation of law by any state official or employee, the attorney general shall immediately ~~shall~~ prosecute such official or employee as provided by law. The legislative ~~council~~ management, through its committee on legislative audit and fiscal review, or such persons as may be directed or employed by ~~the legislative council,~~ is authorized, within the limits of legislative appropriations, to make such audits, examinations, or studies of the fiscal transactions or governmental operations of departments, agencies, or institutions of the state as ~~the legislative management~~ may ~~deem~~ determine necessary.

SECTION 52. AMENDMENT. Section 54-35-02.3 of the North Dakota Century Code is amended and reenacted as follows:

54-35-02.3. Employee benefits programs committee - Appointment - Selection of chairman. The legislative ~~council~~ management, during each biennium, shall appoint an employee benefits programs committee in the same manner as the ~~council~~ legislative management appoints other interim committees. The ~~council~~ legislative management shall appoint five members of the house of representatives and four members of the senate to the committee. The ~~council~~ legislative management shall designate the chairman of the committee. The committee shall operate according to the statutes and procedure governing the operation of other legislative ~~council~~ management interim committees.

SECTION 53. AMENDMENT. Section 54-35-02.4 of the North Dakota Century Code is amended and reenacted as follows:

54-35-02.4. Employee benefits programs committee - Powers and duties.

1. The employee benefits programs committee shall consider and report on those legislative measures and proposals over which it takes jurisdiction and which affect, actuarially or otherwise, the retirement programs of state employees or employees of any political subdivision, and health and retiree health plans of state employees or employees of any political subdivision. The committee shall make a thorough review of any measure or proposal which it takes under its jurisdiction,

including an actuarial review. The committee shall take jurisdiction over any measure or proposal that authorizes an automatic increase or other change in benefits beyond the ensuing biennium which would not require legislative approval. The committee must include in the report of the committee a statement that the proposal would allow future changes without legislative involvement. The committee shall report its findings and recommendations, along with any necessary legislation, to the legislative ~~council~~ management and to the legislative assembly.

2. To carry out its responsibilities, the committee, or its designee, may:
 - a. Enter ~~into~~ contracts, including retainer agreements, with an actuary or actuarial firm for expert assistance and consultation. Each retirement, insurance, or retiree insurance program shall pay, from its retirement, insurance, or retiree health benefits fund, as appropriate, and without the need for a prior appropriation, the cost of any actuarial report required by the committee which relates to that program.
 - b. Call on personnel from state agencies or political subdivisions to furnish such information and render such assistance as the committee may from time to time request.
 - c. Establish rules for its operation, including the submission and review of proposals and the establishing of standards for actuarial review.
3. The committee may solicit draft measures and proposals from interested persons during the interim between legislative sessions, and may also study measures and proposals referred to it by the legislative assembly or the legislative ~~council~~ management.
4. A copy of the committee's report concerning any legislative measure shall, if that measure is introduced for consideration by a legislative assembly, be appended to the copy of that measure which is referred to a standing committee.
5. A legislative measure affecting a public employees retirement program, public employees health insurance program, or public employee retiree health insurance program may not be introduced in either house unless it is accompanied by a report from the committee. A majority of the members of the committee, acting through the chairman, has sole authority to determine whether any legislative measure affects a program.
6. Any amendment made during a legislative session to a legislative measure affecting a public employees retirement program, public employees health insurance program, or public employee retiree health insurance program may not be considered by a standing committee unless it is accompanied by a report from the employee benefits programs committee.
7. Any legislation enacted in contravention of this section is invalid and of no force and effect, and any benefits provided under such legislation must be reduced to the level current prior to enactment.

SECTION 54. AMENDMENT. Section 54-35-02.5 of the North Dakota Century Code is amended and reenacted as follows:

54-35-02.5. Administrative rules committee. The legislative ~~council~~ management, during each biennium, shall appoint an administrative rules committee in the same manner as the ~~council~~ legislative management appoints other interim committees. The legislative ~~council~~ management shall designate the chairman of the committee. The committee shall operate according to the statutes and procedure governing the operation of other legislative ~~council~~ management interim committees. The membership of the administrative rules committee must include at least one of the members who served during the most recently completed regular session of the legislative assembly from each of the standing committees of either the house of representatives or the senate.

SECTION 55. AMENDMENT. Section 54-35-02.6 of the North Dakota Century Code is amended and reenacted as follows:

54-35-02.6. Rules reviewed by administrative rules committee - Committee responsibility. The administrative rules committee shall review administrative rules adopted under chapter 28-32. The committee shall consider oral and written comments received concerning administrative rules. The committee shall study and review administrative rules and related statutes to determine whether:

1. Administrative agencies are properly implementing legislative purpose and intent.
2. There is dissatisfaction with administrative rules or with statutes relating to administrative rules.
3. There are unclear or ambiguous statutes relating to administrative rules.

The committee may make rule change recommendations to the adopting agency and may make recommendations to the legislative ~~council~~ management for the amendment or repeal of statutes relating to administrative rules. The committee's failure to review proposed rules prior to publication in the North Dakota Administrative Code does not prevent rules from taking effect. Except for action pursuant to section 28-32-17 or 28-32-18, the recommendations or opinions of the committee do not affect the legality of any rule as determined by the attorney general.

¹⁹³ **SECTION 56. AMENDMENT.** Section 54-35-02.7 of the North Dakota Century Code is amended and reenacted as follows:

54-35-02.7. Garrison diversion overview. The legislative ~~council~~ management is responsible for legislative overview of the Garrison diversion project and related matters and for any necessary discussions with adjacent states on water-related topics.

¹⁹³ Section 54-35-02.7 was also amended by section 1 of Senate Bill No. 2336, chapter 502.

SECTION 57. AMENDMENT. Section 54-35-02.8 of the North Dakota Century Code is amended and reenacted as follows:

54-35-02.8. Legislative ethics committee. The legislative ~~council~~ management, during each biennium, shall appoint an ethics committee to consider or prepare a legislative code of ethics. The committee may recommend legislation relating to legislative ethics. The committee shall operate according to the laws and procedures governing the operation of other legislative ~~council~~ management interim committees.

SECTION 58. AMENDMENT. Section 54-35-03 of the North Dakota Century Code is amended and reenacted as follows:

54-35-03. State departments, officers, and employees to cooperate. Each department, board, commission, agency, officer, or employee in the state government shall furnish such information and render such assistance to the legislative council and to the legislative management as the legislative council or the legislative management or its committees may from time to time request.

SECTION 59. AMENDMENT. Section 54-35-04 of the North Dakota Century Code is amended and reenacted as follows:

54-35-04. Meetings - When held - How called - Quorum. The ~~council~~ legislative management or committee appointed by it, may sit at such time and place as it may deem advisable, but the ~~council~~ legislative management shall meet at least once in each year and shall meet at any time upon the call of the chairman or a call signed by seven members of the ~~council~~ legislative management. At any meeting of the ~~council~~ legislative management, seven members constitute a quorum and a majority of such quorum has the authority to act in any matter falling within the jurisdiction of the ~~council~~ legislative management.

SECTION 60. AMENDMENT. Section 54-35-05 of the North Dakota Century Code is amended and reenacted as follows:

54-35-05. Governor sending messages to meetings. The governor may send messages to such meetings of the ~~council~~ legislative management as the governor ~~deems~~ determines advisable.

SECTION 61. AMENDMENT. Section 54-35-06 of the North Dakota Century Code is amended and reenacted as follows:

54-35-06. Officers - Accept funds - Expenditures. The ~~council~~ legislative management shall select a chairman and a vice chairman from its own members and may prescribe its own rules of procedure. ~~‡~~ The legislative management may appoint a secretary who need not be a member, and shall appoint a director who must be in charge of the ~~offices and staff of the~~ legislative council and who must be paid such salary as the ~~council~~ legislative management may determine. The ~~council~~ director may employ such ~~other~~ persons and obtain the assistance of such research agencies as ~~it may deem~~ determined necessary. The legislative management and the legislative council is authorized to ~~may~~ accept and use any funds made available ~~to it~~ through the terms of any agreement ~~that it may make~~ made with any agency whatsoever for the accomplishment of the purpose of this chapter. Expenditures of funds made available ~~to the council~~ by legislative appropriation must be made in accordance with rules or motions duly approved by the ~~council~~ legislative management.

SECTION 62. AMENDMENT. Section 54-35-07 of the North Dakota Century Code is amended and reenacted as follows:

54-35-07. Records - Reports. The ~~council~~ legislative management shall keep minutes of its meetings and a record of all its transactions and shall at the beginning of each biennial legislative session, and may at any other time, make a report of its activities and recommendations to the members of the legislative assembly and to the governor.

SECTION 63. AMENDMENT. Section 54-35-08 of the North Dakota Century Code is amended and reenacted as follows:

54-35-08. Recommended legislation may be required in advance. The ~~council~~ legislative management may require that any recommendation for legislation, which is to be presented by any department, board, commission, agency, officer, official, or employee of the state desiring the consideration of the ~~council~~ legislative management, be presented to it at least sixty days in advance of any regular legislative session.

SECTION 64. AMENDMENT. Section 54-35-09 of the North Dakota Century Code is amended and reenacted as follows:

54-35-09. Recommendations - When made public - Distribution. The recommendations of the ~~council~~ legislative management must be completed and made public prior to any session of the legislative assembly at which such recommendations are to be submitted; and a copy of ~~said~~ the recommendations must be ~~mailed~~ distributed to each member-elect of the legislative assembly, to each elective state officer, and to the state law library.

¹⁹⁴ **SECTION 65. AMENDMENT.** Section 54-35-10 of the North Dakota Century Code is amended and reenacted as follows:

54-35-10. (Effective through June 30, 2009) Compensation of members and leadership.

1. The members of the ~~council~~ legislative management and the members of any committee of the ~~council~~ legislative management are entitled to be compensated for the time spent in attendance at sessions of the ~~council~~ legislative management and of its committees at the rate of one hundred eight dollars per day and must also be paid for expenses incurred in attending said meetings and in the performance of their official duties in the amounts provided by law for other state officers.
2. In addition to the compensation provided in subsection 1, the chairman of the ~~council~~ shall legislative management is entitled to receive an additional five dollars for each day spent in attendance at sessions of the ~~council~~ legislative management and of its committees, and the chairman of each of the ~~council's~~ legislative management's committees ~~shall~~ is entitled to receive five dollars for each day spent in attendance

¹⁹⁴ Section 54-35-10 was also amended by section 8 of Senate Bill No. 2064, chapter 386, and section 9 of Senate Bill No. 2064, chapter 386.

at sessions of the ~~council~~ legislative management or of the committee which the person chairs.

(Effective after June 30, 2009) Compensation of members and leadership.

1. The members of the ~~council~~ legislative management and the members of any committee of the ~~council~~ legislative management are entitled to be compensated for the time spent in attendance at sessions of the ~~council~~ legislative management and of its committees at the rate of one hundred thirty-five dollars per day and must also be paid for expenses incurred in attending said meetings and in the performance of their official duties in the amounts provided by law for other state officers.
2. In addition to the compensation provided in subsection 1, the chairman of the ~~council~~ shall legislative management is entitled to receive an additional five dollars for each day spent in attendance at sessions of the ~~council~~ legislative management and of its committees, and the chairman of each of the ~~council's~~ legislative management's committees ~~shall~~ is entitled to receive five dollars for each day spent in attendance at sessions of the ~~council~~ legislative management or of the committee which the person chairs.

SECTION 66. AMENDMENT. Section 54-35-11 of the North Dakota Century Code is amended and reenacted as follows:

54-35-11. Preparation for and assistance to legislative assembly - Custody of equipment - Approval of delayed vouchers. The legislative council ~~is hereby authorized~~, on behalf of the legislative assembly, ~~to may~~ make all necessary arrangements ~~prior to~~ before each legislative session, for the procurement of necessary supplies, equipment, services, ~~excluding other than~~ the employment of legislative employees, building space, or any other preparations or arrangements ~~it deems~~ the legislative council determines necessary or desirable to be made ~~prior to~~ before the commencement of each legislative session in order to facilitate the proper convening and operation of the legislative assembly. The legislative council shall act as the custodial agency to ensure the proper storage and safekeeping of legislative supplies and equipment during the interim periods between legislative sessions, and ~~is authorized to may~~ approve vouchers on behalf of the legislative assembly, ~~or may authorize its director to do so~~, for the payment from legislative appropriations of delayed billings or other billings for legislative expenses during periods when the legislative assembly is not in session. ~~‡ The legislative council shall, through its own actions or through its staff,~~ carry out such duties or projects and provide such service and assistance to the legislative assembly or its committees, the legislative management or its committees, and members of the legislative assembly as may be requested by concurrent resolution of the legislative assembly or ~~deemed~~ determined necessary or desirable in assisting the legislative assembly or the legislative management in meeting its responsibilities and carrying out its duties during the legislative session or the interim between sessions.

SECTION 67. AMENDMENT. Section 54-35-12 of the North Dakota Century Code is amended and reenacted as follows:

54-35-12. Legislative budget analyst and auditor. The legislative ~~council~~ management shall appoint a legislative budget analyst and auditor. A person is not eligible for the appointment unless the person holds a baccalaureate degree from a recognized institution of higher learning, is a certified public accountant, or has had

five years' experience in government accounting. The appointment of the legislative auditor must be based upon qualifications of eligible persons without reference to partisan politics. The salary of the legislative budget analyst and auditor must be determined by the legislative council and it may employ additional persons as necessary to carry out sections 54-35-12 through 54-35-14.

SECTION 68. AMENDMENT. Section 54-35-15 of the North Dakota Century Code is amended and reenacted as follows:

54-35-15. Information technology program - Staff - Powers and duties.

1. The legislative council, ~~or its designee~~, shall provide information technology research and staff services to the legislative branch. The services must be provided in accordance with the existing statutory authority of the legislative council and within the framework of its other staff services.
2. The legislative council ~~staff office~~ shall provide information technology services, ~~and the council, or its designee~~, may hire such ~~additional~~ staff as are necessary, and set compensation for any additional staff within the limits of legislative appropriations.
3. The legislative council, ~~or its designee~~, shall structure the provision of information technology services and assistance to the legislative assembly and shall receive such cooperation and assistance from other state agencies as ~~it may~~ the council reasonably may request.

SECTION 69. AMENDMENT. Section 54-35-15.1 of the North Dakota Century Code is amended and reenacted as follows:

54-35-15.1. Information technology committee - Appointment. The legislative ~~council management~~, during each biennium, shall appoint an information technology committee in the same manner as the ~~council~~ legislative management appoints other interim committees. The ~~council~~ legislative management shall appoint six members of the house of representatives and five members of the senate to the committee. The chief information officer of the state is an ex officio, nonvoting member of the committee. The ~~council~~ legislative management shall designate the chairman of the committee. The committee shall operate according to the statutes and procedure governing the operation of other legislative ~~council management~~ interim committees.

SECTION 70. AMENDMENT. Section 54-35-16 of the North Dakota Century Code is amended and reenacted as follows:

54-35-16. Authority to determine if legislative assembly meets. The ~~council~~ legislative management may issue a call for the legislative assembly to convene after it has adjourned under subsection 2 of section 54-03-02. The length of a legislative session called under this section may not exceed the number of natural days available under the constitution which have not been used by that legislative assembly. The ~~council~~ legislative management may exercise this authority, and the legislative assembly shall meet, regardless of whether the motion to close the regular session of the legislative assembly was to recess to a time certain, adjourn to a time certain, or adjourn sine die.

SECTION 71. AMENDMENT. Section 54-35-17 of the North Dakota Century Code is amended and reenacted as follows:

54-35-17. Retention of legal counsel. When the legislative assembly is in session, either house by resolution may authorize, or both houses by concurrent resolution may direct, the legislative council to appoint or retain legal counsel to appear in, commence, prosecute, defend, or intervene in any action, suit, matter, cause, or proceeding in any court or agency when ~~deemed~~ determined necessary or advisable to protect the official interests of the legislative branch. When the legislative assembly is not in session, the legislative ~~council~~ management, by a majority vote, may authorize the legislative council to appoint or retain legal counsel to appear in, commence, prosecute, defend, or intervene in any action, suit, matter, cause, or proceeding in any court or agency when ~~deemed~~ determined necessary or advisable to protect the official interests of the legislative branch. Section 54-12-08 does not apply to a person appointed or retained under this section.

SECTION 72. AMENDMENT. Section 54-35-18 of the North Dakota Century Code is amended and reenacted as follows:

54-35-18. (Effective through August 1, 2011) Energy development and transmission committee. The legislative ~~council~~ management, during each biennium, shall appoint an energy development and transmission committee in the same manner as the ~~council~~ legislative management appoints other interim committees. The ~~council~~ legislative management shall appoint six members of the house of representatives, four of whom must be from the majority political party and two of whom must be from the minority political party, and six members of the senate, four of whom must be from the majority political party and two of whom must be from the minority political party. The chairman of the legislative ~~council~~ management shall designate the chairman of the committee. The committee shall operate according to the statutes and procedure governing the operation of other legislative ~~council~~ management interim committees. The committee shall study the impact of a comprehensive energy policy for the state and the development of each facet of the energy industry, from the obtaining of the raw natural resource to the sale of the final product in this state, other states, and other countries. The study may include the review of and recommendations relating to policy affecting extraction, generation, processing, transmission, transportation, marketing, distribution, and use of energy, and the taxation of shallow gas to reduce energy costs for all North Dakota residents.

SECTION 73. AMENDMENT. Section 54-35-22 of the North Dakota Century Code is amended and reenacted as follows:

54-35-22. Workers' compensation review committee.

1. During each interim, a legislative ~~council~~ management's interim workers' compensation review committee must be appointed as follows: two members of the senate appointed by the majority leader of the senate of the legislative assembly; one member of the senate appointed by the minority leader of the senate of the legislative assembly; two members of the house of representatives appointed by the majority leader of the house of representatives; and one member of the house of representatives appointed by the minority leader of the house of representatives. The chairman of the legislative ~~council~~ management shall designate the chairman of the committee. The committee shall operate according to the laws and procedures governing the operation of other legislative ~~council~~ management interim committees. The committee may recommend legislation relating to workers' compensation. The committee shall meet once each calendar quarter or less often if the committee chairman determines a meeting that quarter is not necessary because there are no claims to review.

2. The committee shall review workers' compensation claims that are brought to the committee by injured workers for the purpose of determining whether changes should be made to the laws relating to workers' compensation. A claim may not be reviewed by the committee unless workforce safety and insurance has issued a final determination and either the injured worker has exhausted the administrative and judicial appeals process or the period for appeal has expired. In order for the committee to review a claim, the injured worker must first sign a release of information for constituent authorization to allow the committee and legislative council ~~staff~~ to review the injured worker's workforce safety and insurance records and to allow the committee members and workforce safety and insurance representatives to discuss the records in an interim committee hearing. Notwithstanding any open meeting requirements, except as otherwise provided under this section, the workforce safety and insurance records of an injured worker whose case is reviewed by the committee are confidential. However, pursuant to the constituent's authorization, information contained in the records may be discussed by the committee members and workforce safety and insurance representatives in an interim committee hearing.
3. The committee shall accept testimony of an injured worker and of a representative designated by the injured worker. After the committee has received the testimony of the injured worker and the injured worker's representative, the committee shall request that workforce safety and insurance provide testimony.

¹⁹⁵ **SECTION 74. AMENDMENT.** Section 54-35-23 of the North Dakota Century Code is amended and reenacted as follows:

54-35-23. (Effective through July 31, 2009) Committee on tribal and state relations - Membership - Duties.

1. The committee on tribal and state relations is composed of seven members as follows:
 - a. The chairman of the legislative ~~council~~ management or the chairman's designee;
 - b. Three members of the house of representatives, two of whom must be selected by the leader representing the majority faction of the house of representatives and one of whom must be selected by the leader representing the minority faction of the house of representatives; and
 - c. Three members of the senate, two of whom must be selected by the leader representing the majority faction of the senate and one of whom must be selected by the leader representing the minority faction of the senate.

¹⁹⁵ Section 54-35-23 was also amended by section 1 of House Bill No. 1060, chapter 503.

2. The chairman of the legislative ~~council~~ management or the chairman's designee, shall serve as chairman of the committee.
3. The committee shall meet at such times and places as determined by the chairman. The legislative council shall provide staffing for the committee.
4. The committee shall conduct joint meetings with the native American tribal citizens' task force to study tribal-state issues, including government-to-government relations, the delivery of services, case management services, child support enforcement, and issues related to the promotion of economic development. After the joint meetings have concluded, the committee shall meet to prepare a report on its findings and recommendations, together with any legislation required to implement those recommendations, to the legislative ~~council~~ management.
5. The members of the committee are entitled to compensation from the legislative council for attendance at committee meetings at the rate provided for members of the legislative assembly for attendance at interim committee meetings and are entitled to reimbursement for expenses incurred in attending the meetings in the amounts provided by law for other state officers.
6. a. The native American tribal citizens' task force is composed of six members as follows:
 - (1) The executive director of the Indian affairs commission, or the executive director's designee;
 - (2) The chairman of the Standing Rock Sioux Tribe, or the chairman's designee;
 - (3) The chairman of the Spirit Lake Tribe, or the chairman's designee;
 - (4) The chairman of the Three Affiliated Tribes, or the chairman's designee;
 - (5) The chairman of the Turtle Mountain Band of Chippewa Indians, or the chairman's designee; and
 - (6) The chairman of the Sisseton-Wahpeton Sioux Tribe, or the chairman's designee.
- b. If the executive director of the Indian affairs commission or any of the tribal chairmen appoint a designee to serve on the task force, only one individual may serve as that designee during the biennium. A substitute designee may be appointed by the executive director of the Indian affairs commission or a tribal chairman in the event of the death, incapacity, resignation, or refusal to serve of the initial designee.

SECTION 75. AMENDMENT. Section 54-35.2-01 of the North Dakota Century Code is amended and reenacted as follows:

54-35.2-01. Advisory commission on intergovernmental relations - Membership - Terms - Meetings.

1. The advisory commission on intergovernmental relations consists of twelve members:
 - a. The North Dakota league of cities executive committee shall appoint two members of the commission.
 - b. The North Dakota association of counties executive committee shall appoint two members of the commission.
 - c. The North Dakota township officers association executive board of directors shall appoint one member of the commission.
 - d. The North Dakota recreation and park association executive board shall appoint one member of the commission.
 - e. The North Dakota school boards association board of directors shall appoint one member of the commission.
 - f. The governor or the governor's designee is a member of the commission.
 - g. The legislative ~~council~~ management shall appoint four members of the legislative assembly as members of the commission.
2. The legislative ~~council~~ management shall designate the chairman and vice chairman of the commission.
3. All members of the commission shall serve for a term of two years, beginning July first of each odd-numbered year, and may be reappointed for additional terms.
4. If any member of the commission resigns or ceases to be a member of the class the member represents, that person's membership on the commission ceases immediately and the appropriate appointing authority may appoint a new member for the remainder of the term.
5. The commission shall meet at least semiannually.

SECTION 76. AMENDMENT. Section 54-35.2-02 of the North Dakota Century Code is amended and reenacted as follows:

54-35.2-02. Functions and duties. The advisory commission on intergovernmental relations shall:

1. Serve as a forum for the discussion of resolution of intergovernmental problems.
2. Engage in activities and studies relating to the following subjects:
 - a. Local governmental structure.
 - b. Fiscal and other powers and functions of local governments.

- c. Relationships between and among local governments and the state or any other government.
 - d. Allocation of state and local resources.
 - e. Interstate issues involving local governments, including cooperation with appropriate authorities of other states.
 - f. Statutory changes required to implement commission recommendations.
3. Present reports and recommended legislative bills to the legislative ~~council~~ management for consideration in the same manner as ~~interim~~ legislative ~~council~~ management interim committees.
 4. Prepare model ordinances or resolutions for consideration by officials of political subdivisions.

SECTION 77. AMENDMENT. Section 54-35.2-04 of the North Dakota Century Code is amended and reenacted as follows:

54-35.2-04. Finances.

1. A member of the advisory commission on intergovernmental relations who is a member of the legislative assembly is entitled to receive, from funds available to the commission, compensation per day for each day spent in attendance at commission meetings in the same amount as provided for members of the legislative ~~council~~ management and reimbursement for travel and other necessary expenses incurred in the performance of official duties in the amounts provided by law for other state officers. Members of the advisory commission on intergovernmental relations who are appointed by an organization representing political subdivisions may be reimbursed for attendance at commission meetings by the organization by which they were appointed.
2. The commission may apply for, contract for, receive, and expend for its purposes any appropriation or grant from any public or private source.
3. Political subdivisions of the state may appropriate funds to the commission to share in the cost of its operations.

SECTION 78. AMENDMENT. Section 54-35.2-05 of the North Dakota Century Code is amended and reenacted as follows:

54-35.2-05. Reports. The advisory commission on intergovernmental relations shall report its findings and recommendations and any proposed legislation necessary to implement the recommendations to the legislative ~~council~~ management at the time and in the manner reports are made by interim committees of the legislative ~~council~~ management. The legislative ~~council~~ management may accept, reject, or amend the report of the advisory commission on intergovernmental relations. The legislative ~~council~~ management shall include the report, or any portion of it, as accepted, rejected, or amended, in the ~~council's~~ legislative management's final report. Copies of the report of the advisory commission on intergovernmental relations, as accepted, rejected, or amended by the legislative

~~council management~~, must be available to counties, cities, townships, appropriate state departments and agencies, and the public.

SECTION 79. AMENDMENT. Subsection 3 of section 54-40-01 of the North Dakota Century Code is amended and reenacted as follows:

3. An agency, department, or institution of this state may enter an agreement with the state of South Dakota to form a bistate authority to jointly exercise any function that the entity is authorized by law to perform. Any agreement entered under this subsection must be submitted to the legislative assembly or, if the legislative assembly is not in session, to the legislative ~~council~~ ~~or a committee designated by the legislative council~~ management for approval or rejection and may not become effective until approved by the legislative assembly or the legislative ~~council~~ management.

SECTION 80. AMENDMENT. Section 54-44.1-12.1 of the North Dakota Century Code is amended and reenacted as follows:

54-44.1-12.1. Implementation of legislative intent - Legislative objection to execution of budget - Effect of objection.

1. The budget section of the legislative ~~council~~ management may object to any allotment made under section 54-44.1-12, any expenditure of a budget unit, or any failure to make an allotment or expenditure if the budget section ~~deems~~ determines that the allotment or expenditure or the failure to make an allotment or expenditure is contrary to legislative intent as recorded in any reliable legislative records. The budget section shall file that objection in certified form ~~in the office of~~ with the legislative council. The filed objection must contain a concise statement of the budget section's reasons for the objection.
2. The ~~office of the~~ legislative council shall attach to each objection a certification of the time and date of the filing of the objection and, as soon as possible, shall transmit a copy of the objection and the certification to the director of the budget and the affected budget unit. The ~~office of the~~ legislative council shall maintain a permanent register of all objections under this section.
3. Within fourteen days after the filing of an objection, the affected budget unit shall respond in writing to the budget section. After receipt of that response, the budget section may withdraw or modify its objection.
4. After the filing of an objection, the burden of persuasion is upon the budget unit in any action for judicial review of whether the allotment or expenditure or the failure to make an allotment or expenditure is contrary to law. If the budget unit fails to meet its burden of persuasion, the court shall render judgment against the budget unit for court costs. These court costs must include reasonable attorney's fees and must be payable from the appropriation of the budget unit.

SECTION 81. AMENDMENT. Section 54-52.1-08.2 of the North Dakota Century Code is amended and reenacted as follows:

54-52.1-08.2. Uniform group insurance program - Compliance with federal requirements - Group purchasing arrangements. If the board determines

that any section or the phraseology of any section of this chapter does not comply with applicable federal statutes or rules, the board shall adopt appropriate terminology with respect to that section to comply with the federal statutes or rules, subject to the approval of the legislative ~~council's~~ management's employee benefits programs committee. The board may assume responsibility for group purchasing arrangements as provided by federal law. Any plan modifications made by the board under this section are effective until the effective date of any measure enacted by the legislative assembly providing the necessary amendments to this chapter to ensure compliance with the federal statutes or rules.

SECTION 82. AMENDMENT. Section 54-55-01 of the North Dakota Century Code is amended and reenacted as follows:

54-55-01. Commission on uniform state laws - Membership. The commission on uniform state laws consists of an individual engaged in the practice of law in this state, the dean or a full-time member of the faculty of the law school of the university of North Dakota, a law-trained judge of a court of record in this state, a member of the house of representatives and a member of the senate of the legislative assembly, and a member of the legislative council ~~staff~~. The commission also consists of any residents of this state who, because of long service in the cause of uniformity of state legislation, have been elected life members of the national conference of commissioners on uniform state laws, and may also consist of any residents of this state who have been previously appointed to at least five years of service on the commission. Commissioners, except the members of the legislative assembly, the member of the legislative council ~~staff~~, and life members, must be appointed by the governor for terms of four years each, commencing on the first day of September following each presidential election, and shall serve until their respective successors are appointed. The members of the legislative assembly on the commission must be appointed by the legislative ~~council~~ management for a term not to exceed four years as prescribed by the legislative ~~council~~ management, and the member of the legislative council ~~staff~~ must be appointed by the chairman of the legislative ~~council~~ management.

SECTION 83. AMENDMENT. Section 54-55-04 of the North Dakota Century Code is amended and reenacted as follows:

54-55-04. Duties of commissioners and commission. Each commissioner shall attend the annual meeting of the national conference of commissioners on uniform state laws and shall promote uniformity in state laws on those subjects where uniformity may be deemed desirable and practicable. The commission shall also promote as far as practicable the uniform judicial application and construction of all uniform state laws. During the interim between legislative sessions, the commission may submit its recommendations for enactment of uniform and model laws to the legislative ~~council~~ management for its review and recommendation. Commissioners shall provide such assistance to the legislative ~~council~~ management as the legislative ~~council~~ management requests with respect to its review of uniform and model laws. During each biennial legislative session, and at any other time as the commission may deem proper, the commission shall report to the legislative assembly an account of its transactions and its advice and recommendations for legislation. The report must include the recommendations of the legislative ~~council~~ management with respect to uniform and model laws recommended by the commission.

SECTION 84. AMENDMENT. Section 54-58-03 of the North Dakota Century Code is amended and reenacted as follows:

54-58-03. Tribal-state gaming compact - Creation, renewals, and amendments. The governor or the governor's designee may represent the state in any gaming negotiation in which the state is required to participate pursuant to 25 U.S.C. 2701 et seq. by any federally recognized Indian tribe and, on behalf of the state, may execute a gaming compact between the state and a federally recognized Indian tribe, subject to the following:

1. If the legislative assembly is not in session at the time gaming negotiations are being conducted, the chairman and vice chairman of the legislative ~~council~~ management or the designee of the chairman or vice chairman may attend all negotiations and brief the legislative ~~council~~ management on the status of the negotiations.
2. If the legislative assembly is in session at the time negotiations are being conducted, the majority and minority leaders of both houses, or their designees, may attend all negotiations and brief their respective houses on the status of the negotiations.
3. The compact may authorize an Indian tribe to conduct gaming that is permitted in the state for any purpose by any person, organization, or entity.
4. For the purposes of this chapter, the term "gaming that is permitted in the state for any purpose by any person, organization, or entity" includes any game of chance that any Indian tribe was permitted to conduct under a tribal-state gaming compact that was in effect on August 1, 1997.
5. The compact may not authorize gaming to be conducted by an Indian tribe at any off-reservation location not permitted under a tribal-state gaming compact in effect on August 1, 1997, except that in the case of the tribal-state gaming compact between the Turtle Mountain Band of Chippewa and the state, gaming may be conducted on land within Rolette County held in trust for the Band by the United States government which was in trust as of the effective date of the Indian Gaming Regulatory Act of 1988 [Pub. L. 100-497; 102 Stat. 2467; 25 U.S.C. 2701 et seq.].
6. The compact may not obligate the state to appropriate state funds; provided, however, the state may perform services for reimbursement.
7. The negotiations between the tribe and the state must address the possibility of a mutual effort of the parties to address the issue of compulsive gambling.
8. If the legislative assembly is not in session when the negotiations are concluded, the governor shall forward a copy of the compact as finally negotiated to each member of the legislative ~~council~~ management at least twenty-one days before the compact is signed.
9. If the legislative assembly is in session when the negotiations are concluded, the governor shall forward a copy of the compact as finally negotiated to each member of the legislative assembly at least twenty-one days before the compact is signed.

10. Before execution of any proposed tribal-state gaming compact or amendment thereto, the governor shall conduct one public hearing on the proposed compact or amendment.

SECTION 85. AMENDMENT. Section 54-59-07 of the North Dakota Century Code is amended and reenacted as follows:

54-59-07. State information technology advisory committee. The state information technology advisory committee consists of the chief information officer; the commissioner of higher education or the commissioner's designee; the attorney general or the attorney general's designee; the secretary of state or the secretary of state's designee; the tax commissioner or the commissioner's designee; the chief justice of the supreme court or the chief justice's designee; two members of the legislative assembly appointed by the legislative ~~council~~ management; a minimum of eight members representing state agencies, appointed by the governor; and two members with technology management expertise representing private industry, appointed by the governor. The appointees of the governor serve at the pleasure of the governor. The governor shall designate the chairman of the committee. Additional members may be asked to participate at the request of the chairman. The department shall provide staff services to the committee. The members of the committee representing private industry are entitled to be compensated for time spent in attendance at meetings of the committee and for other travel as approved by the chairman of the committee at the rate of sixty-two dollars and fifty cents per day and are entitled to reimbursement for actual and necessary expenses incurred in the same manner as other state officials. The compensation and expenses are to be paid from appropriations for the department. The committee shall advise the department regarding statewide information technology planning and budgeting, services of the information technology department, and statewide information technology initiatives and policy and shall review reports on major information technology projects as required by this chapter and policies, standards, and guidelines developed by the department. The chief information officer shall submit recommendations of the committee regarding information technology issues to the information technology committee for its consideration.

¹⁹⁶ **SECTION 86. AMENDMENT.** Section 54-59-11 of the North Dakota Century Code is amended and reenacted as follows:

54-59-11. Information technology plans. Each executive branch state agency or institution, excluding the institutions under the control of the board of higher education, shall prepare an information technology plan, subject to acceptance by the department. The plan must be submitted to the department by July fifteenth of each even-numbered year. The plan must be prepared based on guidelines developed by the department; must provide the information technology goals, objectives, and activities of the entity for the current biennium and the next two bienniums; and must include an asset management plan relating to the inventory of information technology assets owned, leased, or employed by the entity. Each entity required to file a plan shall provide interim updates to its plan if major information technology changes occur which affect its plan. The department shall review each entity's plan for compliance with statewide information technology policies and standards and may require an entity to change its plan to comply with statewide

¹⁹⁶ Section 54-59-11 was also amended by section 3 of Senate Bill No. 2142, chapter 517.

policies or standards or to resolve conflicting directions among plans. Agencies of the judicial and legislative branches shall file their information technology plans with the department by July fifteenth of each even-numbered year. Each entity required to file a plan shall prepare its budget request for the next biennium based on its information technology plan. The agency's budget request and the governor's budget recommendation must include supporting information describing in detail how the information technology plan relates to the budget request and recommendation. Any budget adjustment by the budget office must include the corresponding change to the plan. Based on the plans, the department shall prepare a statewide information technology plan and distribute copies of that plan to members of the legislative assembly as requested by the legislative council ~~or its designee~~. The statewide information technology plan must be developed with emphasis on long-term strategic goals, objectives, and accomplishments. The statewide information technology plan must contain:

1. A list of major projects started, ongoing, and completed during the biennium, including related budgeted and actual costs and the estimated implementation date for each project as well as the actual implementation date for completed projects.
2. Information regarding evaluations of cost-benefit analyses for completed projects.
3. Information regarding the information technology plans, including the department's plan review process, the number of plans reviewed, and the number of plans accepted.
4. A description of the benefits to the state resulting from its investment in information technology.

SECTION 87. AMENDMENT. Section 54-59-12 of the North Dakota Century Code is amended and reenacted as follows:

54-59-12. Coordination of activities - Reports. The department shall cooperate with each state entity providing access to any computer data base or electronically filed or stored information under subsection 4 of section 44-04-18 to assist in providing economical, efficient, and compatible access. The chief information officer shall conduct conferences and meetings with political subdivisions to review and coordinate information technology. The chief information officer and the commissioner of the board of higher education shall meet at least twice each year to plan and coordinate their information technology. The chief information officer and commissioner shall consider areas in which joint or coordinated information technology may result in more efficient and effective state government operations. Upon request, the chief information officer shall report to the legislative ~~council or its designated committee~~ management regarding the coordination of services with political subdivisions, and the chief information officer and commissioner shall report to the legislative ~~council or its designated committee~~ management regarding their findings and recommendations.

SECTION 88. AMENDMENT. Section 54-59-23 of the North Dakota Century Code is amended and reenacted as follows:

54-59-23. Information technology projects - Reports.

1. An executive, legislative, or judicial branch agency, except for institutions under the control of the state board of higher education, shall

report to the state information technology advisory committee according to guidelines developed by the department and reviewed by the state information technology advisory committee regarding the plan for and status of any information technology project that is estimated to cost more than two hundred fifty thousand dollars.

2. During the life of the project, the agency shall notify the state information technology advisory committee if:
 - a. At a project milestone, the amount expended on project costs exceeds the planned budget for that milestone by twenty percent or more; or
 - b. At a project milestone, the project schedule extends beyond the planned schedule to attain that milestone by twenty percent or more.
3. A report under subsection 2 must specify corrective measures being undertaken to address any cost or time of completion issue. If the agency has not taken adequate corrective measures within ninety days after the report, the agency shall submit a report to the legislative ~~council's~~ management's information technology committee regarding the project.
4. Upon completion of the project, the agency shall notify the state information technology advisory committee if:
 - a. The budget for the project exceeded the original budget by twenty percent or more; or
 - b. The final project completion date extended beyond the original project scheduled completion date by twenty percent or more.

¹⁹⁷ **SECTION 89. AMENDMENT.** Subsection 10 of section 54-60-03 of the North Dakota Century Code is amended and reenacted as follows:

10. Shall report between the first and tenth legislative days of each regular legislative session to a standing committee of each house of the legislative assembly as determined by the legislative ~~council~~ management and shall report annually to the foundation:
 - a. On the department's goals and objectives since the last report;
 - b. On the department's goals and objectives for the period until the next report;
 - c. On the department's long-term goals and objectives;
 - d. On the department's activities and measurable results occurring since the last report; and

¹⁹⁷ Section 54-60-03 was also amended by section 10 of Senate Bill No. 2110, chapter 480.

- e. On commerce benchmarks, including the average annual wage in the state, the gross state product exclusive of agriculture, and the number of primary sector jobs in the state;

¹⁹⁸ **SECTION 90. AMENDMENT.** Section 54-60-11 of the North Dakota Century Code is amended and reenacted as follows:

54-60-11. Target industries - Report to legislative council. The commissioner shall identify target industries on which the commissioner shall focus economic development efforts. The commissioner shall designate one of these target industries as a special focus target industry. In identifying and updating target industries, the commissioner shall solicit the advice of the foundation and the North Dakota university system. The commissioner may contract for the services of a third party in identifying target industries. The commissioner shall report biennially to the legislative council management. This report must include information regarding the process used and factors considered in identifying and updating the target industries, the specific tactics the department has used to specifically address the needs of the target industries, the unique tactics and the specific incentives the department has used to support the growth of the special focus target industry, and any recommended legislative changes necessary to better focus economic development services on these industries.

SECTION 91. AMENDMENT. Section 54-62-03 of the North Dakota Century Code is amended and reenacted as follows:

54-62-03. Advisory commission. The advisory commission on faith-based and community initiatives is composed of seven members to include the following: the executive director of the department of human services or the director's designee; the director of the department of corrections and rehabilitation or the director's designee; two members of the legislative assembly, one of whom must be selected by the members of the legislative council management representing the majority faction and one of whom must be selected by the members of the legislative council management representing the minority faction; and three public members appointed by the governor, one of whom must represent a minority population. The term of office for the public members is three years. Of the first public members appointed, one must be appointed for a term of one year, one must be appointed for a term of two years, and one must be appointed for a term of three years. No public member may be appointed to more than two consecutive terms. A chairman of the commission must be chosen annually from the membership of the commission by a majority of its members at the first meeting of the advisory commission each year. The advisory commission shall advise the director of the office of faith-based and community initiatives in the establishment of policy regarding matters affecting the faith-based and community organizations, including making recommendations concerning the future of existing state programs and initiatives. The advisory commission on faith-based and community initiatives shall report periodically to the governor and provide the governor with information and recommendations for the governor's consideration. The members of the advisory commission are entitled to mileage and expenses as provided by law for state officers and employees.

¹⁹⁸ Section 54-60-11 was also repealed by section 16 of Senate Bill No. 2110, chapter 480.

¹⁹⁹ **SECTION 92. AMENDMENT.** Section 57-40.6-12 of the North Dakota Century Code is amended and reenacted as follows:

57-40.6-12. Emergency services communications coordinating committee - Membership - Duties.

1. The governing body of a city or county, which adopted a fee on assessed communications services under this chapter, shall make an annual report of the income, expenditures, and status of its emergency services communication system. The annual report must be submitted to the emergency services communications coordinating committee. The committee is composed of three members, one appointed by the North Dakota 911 association, one appointed by the North Dakota association of counties, and one appointed by the adjutant general to represent the division of state radio.
2. The committee shall:
 - a. Recommend to the legislative ~~council~~ management changes to the operating standards for emergency services communications, including training or certification standards for dispatchers;
 - b. Develop guidelines regarding the allowable uses of the fee revenue collected under this chapter;
 - c. Request, receive, and compile reports from each governing body on the use of the proceeds of the fee imposed under this chapter, analyze the reports with respect to the guidelines, file its report with the legislative council by November first of each even-numbered year regarding the use of the fee revenue, and recommend to the legislative assembly the appropriate maximum fee allowed by section 57-40.6-02; and
 - d. Periodically evaluate chapter 57-40.6 and recommend changes to the legislative ~~council~~ management.
3. The committee may initiate and administer statewide agreements among the governing bodies of the local governmental units with jurisdiction over an emergency 911 telephone system to coordinate the procurement of equipment and services, fund the research, administration, and activities of the committee, and contract for the necessary staff support for committee activities.

SECTION 93. AMENDMENT. Section 61-24-04 of the North Dakota Century Code is amended and reenacted as follows:

61-24-04. Compensation of directors. Each member of the board of directors of the district is entitled to receive as compensation from the district an amount determined by the board of directors not to exceed the amount provided for members of the legislative ~~council~~ management under section 54-35-10 per day and

¹⁹⁹ Section 57-40.6-12 was also amended by section 1 of House Bill No. 1135, chapter 570.

must be reimbursed for the member's expenses in the amounts provided in sections 44-08-04 and 54-06-09 while attending meetings of the board or otherwise engaged in the official business of the district.

²⁰⁰ **SECTION 94. AMENDMENT.** Section 61-24.5-04 of the North Dakota Century Code is amended and reenacted as follows:

61-24.5-04. Board of directors - Officers - Meetings - Compensation.

The authority must be governed by a board of directors who must be chosen in accordance with this chapter. One director must be elected from each county within the authority, and two directors must be elected in the city of Dickinson. The director from Stark County may not be a resident of the city of Dickinson. The board shall elect from the directors a chairman, vice chairman, and secretary. A majority of the directors constitutes a quorum for the purpose of conducting the business of the board. The board shall meet at the time and place designated by the secretary. Board members are entitled to receive as compensation an amount determined by the board not to exceed the amount per day provided members of the legislative council ~~management~~ under section 54-35-10 and must be reimbursed for their mileage and expenses in the amount provided for by sections 44-08-04 and 54-06-09.

²⁰¹ **SECTION 95. AMENDMENT.** Section 65-02-30 of the North Dakota Century Code is amended and reenacted as follows:

65-02-30. Independent performance evaluation - Organization development of performance measurements - Continuing appropriation.

Biennially, the director shall request the state auditor to select a firm with extensive expertise in workforce safety and insurance practices and standards to complete a performance evaluation of the functions and operations of the organization during that biennium. This may not be construed to require the firm to be a certified public accounting firm. As determined necessary by the state auditor, but at least once every other biennium, the biennial independent performance evaluation must evaluate departments of the organization to determine whether the organization is providing quality service in an efficient and cost-effective manner; evaluate the effectiveness of safety and loss prevention programs under section 65-03-04; and evaluate the board to determine whether the board is operating within section 65-02-03.3 and within the board's bylaws. The firm's report must contain recommendations for departmental improvement or an explanation of why no recommendations are being made. The director, the chairman of the board, and a representative of the firm shall present the evaluation report and any action taken to the legislative council's ~~management's~~ legislative audit and fiscal review committee and to the house and senate industry, business and labor standing committees during the next regular session of the legislative session following the performance evaluation. The director shall provide a copy of the performance evaluation report to the state auditor. The organization shall develop and maintain comprehensive, objective performance measurements. These measurements must be evaluated as part of the independent performance evaluation performed under this section.

²⁰⁰ Section 61-24.5-04 was also amended by section 1 of House Bill No. 1278, chapter 601.

²⁰¹ Section 65-02-30 was also amended by section 2 of House Bill No. 1037, chapter 616.

Money in the workforce safety and insurance fund is appropriated on a continuing basis for the payment of the expense of conducting the performance evaluation.

SECTION 96. AMENDMENT. Section 65-06.2-09 of the North Dakota Century Code is amended and reenacted as follows:

65-06.2-09. Safety and performance audit. The organization shall perform a safety audit of the roughrider industries work programs covered under this chapter and a performance audit of the program of modified workers' compensation coverage. The organization shall submit a report with recommendations based on the safety and performance audit to ~~an interim committee designated by~~ the legislative council no later than thirty days before the commencement of each regular session of the legislative assembly.

²⁰² **SECTION 97.** The legislative council may replace "chairman of the legislative council" or "legislative council chairman" with "chairman of the legislative management" in North Dakota Century Code sections 4-05.1-16, 4-35-30, 14-09-09.7, 15-10.2-02, 15-52-03, 15.1-27-41, 16.1-13-10, 20.1-16-02, 24-02-37.2, 27-05.2-09, 44-02-02, 53-12.1-04, 54-03-20, 54-06-25, 54-35-20, 54-35-24, 54-61-01, and 57-39.4-31 and in any other provisions of the code.

²⁰³ **SECTION 98.** The legislative council may replace "budget section of the legislative council" or "legislative council's budget section" with "budget section of the legislative management" in North Dakota Century Code sections 15-03-04, 15-10-12.1, 15-10-12.3, 15-69-02, 15-69-05, 17-02-01, 20.1-02-05.1, 25-04-02.2,

²⁰² Section 14-09-09.7 was also amended by section 2 of House Bill No. 1329, chapter 148; section 15-52-03 was also amended by section 1 of Senate Bill No. 2081, chapter 166; section 15.1-27-41 was also amended by section 40 of House Bill No. 1400, chapter 175, and was repealed by section 65 of House Bill No. 1400, chapter 175; section 53-12.1-04 was also amended by section 8 of House Bill No. 1003, chapter 3; section 54-03-20 was also amended by section 40 of House Bill No. 1436, chapter 482, section 9 of Senate Bill No. 2001, chapter 29, section 10 of Senate Bill No. 2001, chapter 29, section 2 of Senate Bill No. 2064, chapter 386, section 3 of Senate Bill No. 2064, chapter 386, section 4 of Senate Bill No. 2064, chapter 386, section 5 of Senate Bill No. 2064, chapter 386, and section 6 of Senate Bill No. 2064, chapter 386; section 54-06-25 was also amended by section 46 of House Bill No. 1436, chapter 482; section 54-35-24 was also amended by section 1 of Senate Bill No. 2029, chapter 504; section 54-61-01 was also amended by section 1 of House Bill No. 1146, chapter 520.

²⁰³ Section 15-03-04 was also amended by section 5 of Senate Bill No. 2085, chapter 153; section 15-69-02 was also amended by section 31 of Senate Bill No. 2018, chapter 46; section 15-69-05 was also amended by section 33 of Senate Bill No. 2018, chapter 46; section 20.1-02-05.1 was also amended by section 2 of House Bill No. 1017, chapter 17; section 40-63-07 was also amended by section 8 of House Bill No. 1324, chapter 545, and section 2 of House Bill No. 1428, chapter 354; section 54-44-04 was also amended by section 1 of Senate Bill No. 2425, chapter 506; section 54-59-05 was also amended by section 1 of Senate Bill No. 2142, chapter 517; section 57-38-01.29 was also amended by section 22 of House Bill No. 1324, chapter 545, and section 1 of House Bill No. 1448, chapter 548; section 57-38-01.30 was also amended by section 23 of House Bill No. 1324, chapter 545.

40-23-22.1, 40-63-07, 47-30.1-24.1, 48-01.2-25, 50-06-05.1, 54-14-03.1, 54-16-04, 54-16-04.1, 54-16-04.2, 54-16-09, 54-23.3-09, 54-27-22, 54-27-23, 54-27.2-03, 54-44-04, 54-44-16, 54-44.1-13.1, 54-59-05, 57-38-01.29, 57-38-01.30, 65-04-03.1, and 65-08.1-02 and in any other provisions of the code.

SECTION 99. REPEAL. Section 49-21-22.2 of the North Dakota Century Code is repealed.

Approved May 1, 2009

Filed May 4, 2009

CHAPTER 483**HOUSE BILL NO. 1280**

(Representatives Klemin, DeKrey, Wald)

(Senators Fischer, Hogue)

AN ACT to require a legislative council study of application by administrative agencies of standards from other than state or federal law which have not been adopted as administrative rules.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. LEGISLATIVE COUNCIL STUDY. The legislative council shall study application by administrative agencies of standards from other than state or federal law which have not been adopted as administrative rules. The legislative council shall obtain information from each agency with administrative rulemaking authority regarding any standards applied by the agency to the regulated community which have not been adopted as administrative rules and the reason why the agency has not used its rulemaking authority to adopt the standards as administrative rules and the reason why the agency has not used its agency bill introduction privilege for legislative consideration of the standards. For purposes of this study, "standards" means a body of regulatory provisions developed by an association, commission, or other organization which do not have the force and effect of law in this state or in federal law or regulations. The legislative council shall report its findings and recommendations, together with any legislation necessary to implement the recommendations, to the sixty-second legislative assembly.

Approved April 8, 2009

Filed April 9, 2009

CHAPTER 484**HOUSE BILL NO. 1309**

(Representatives Koppelman, Delmore, Ruby)
(Senators Krebsbach, Nelson, Wardner)

AN ACT to provide for a legislative council study of the Interstate Compact on Educational Opportunity for Military Children.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. INTERSTATE COMPACT ON EDUCATIONAL OPPORTUNITY FOR MILITARY CHILDREN - STUDY. During the 2009-10 interim, the legislative council shall consider studying the Interstate Compact on Educational Opportunity for Military Children, as well as its administration, enforcement, cost, and its impact on North Dakota laws, school districts, schools, and children of both military and civilian families, with a view to determining whether North Dakota should become a participating member of the compact. The legislative council shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-second legislative assembly.

Approved April 16, 2009
Filed April 17, 2009

CHAPTER 485**HOUSE BILL NO. 1338**

(Representative Glassheim)

AN ACT to provide for a legislative council study of solid waste management, with an emphasis on the siting and zoning of landfills on a statewide or regional level while allowing adequate protection for political subdivisions and property owners.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. LEGISLATIVE COUNCIL STUDY OF SOLID WASTE MANAGEMENT. During the 2009-10 interim, the legislative council shall study solid waste management, with an emphasis on the siting and zoning of landfills on a statewide or regional level while allowing adequate protection for political subdivisions and property owners in the siting and zoning process. The study also may include the incorporation of information dealing with new solid waste sciences that affect the overall issue of siting, the reduction of landfill waste in North Dakota through the encouragement and coordination of public and private recycling programs, and the potential for development of methane processing from landfills for power generation. The legislative council shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-second legislative assembly.

Approved April 24, 2009

Filed April 29, 2009

CHAPTER 486**HOUSE BILL NO. 1341**

(Representatives Glassheim, Grande, Klein)
(Senator Wardner)

AN ACT to provide for a legislative council study of a state employee tuition reimbursement pool program.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. STATE EMPLOYEE TUITION REIMBURSEMENT POOL - LEGISLATIVE COUNCIL STUDY. During the 2009-10 interim, the legislative council shall consider studying the feasibility and desirability of an appropriation to the office of management and budget for a state employee tuition reimbursement pool program. The study must address the amount to be allocated to the pool and the agencies that would be authorized to reimburse state employees for tuition costs of eligible and approved education programs. The legislative council shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-second legislative assembly.

Approved April 8, 2009
Filed April 9, 2009

CHAPTER 487**HOUSE BILL NO. 1391**

(Representatives Kasper, Dosch, Headland, Ruby)
(Senator Klein)

AN ACT to provide for a legislative council study.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. LEGISLATIVE COUNCIL STUDY - HEALTH INSURANCE NEEDS - REPORT. During the 2009-10 interim, the legislative council shall conduct a comprehensive study of unmet health care needs in the state. The study must include an assessment of the needs of underinsured and uninsured individuals and families. In addition to considering the federal health care initiatives, the study must include consultation with the state department of health, the insurance commissioner, and the department of human services. The legislative council shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-second legislative assembly.

Approved April 21, 2009
Filed April 22, 2009

CHAPTER 488**HOUSE BILL NO. 1403**

(Representatives Kasper, Brandenburg, Thoreson)
(Senators Freborg, Olafson)

AN ACT to provide for a legislative council study of the capitol complex facility needs.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. LEGISLATIVE COUNCIL STUDY - STATE CAPITOL GROUNDS FACILITY NEEDS. During the 2009-10 interim, the legislative council shall study the utilization of all facilities on the state capitol grounds, including an evaluation of facility needs by state agencies and a review of the capitol complex master plan. The study must include an evaluation of the short-term and long-term viability of facilities located on the capitol grounds, including the governor's residence. The legislative council shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-second legislative assembly.

Approved April 8, 2009
Filed April 9, 2009

CHAPTER 489**HOUSE BILL NO. 1425**

(Representatives Bellew, Damschen, Kreidt, Porter, Weisz, Wieland)

AN ACT to provide for a legislative council study of the responsibility for the funding of nonfederal foster care and subsidized adoption costs.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. NONFEDERAL FOSTER CARE AND SUBSIDIZED ADOPTION COSTS - LEGISLATIVE COUNCIL STUDY. During the 2009-10 interim, the legislative council shall consider studying the feasibility and desirability of transferring from the county to the state the responsibility for the funding of nonfederal foster care and subsidized adoption costs. The legislative council shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-second legislative assembly.

Approved April 30, 2009
Filed May 4, 2009

CHAPTER 490**HOUSE BILL NO. 1497**

(Representative Nathe)
(Senator Cook)

AN ACT to provide for a legislative council study of the feasibility and desirability of transferring from the county to the state the responsibility for the cost of and responsibility for providing legal counsel in cases involving the commitment of sexually dangerous individuals.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. LEGISLATIVE COUNCIL STUDY - SEXUALLY DANGEROUS INDIVIDUAL COMMITMENT LEGAL COUNSEL COSTS. During the 2009-10 interim, the legislative council shall consider studying the feasibility and desirability of transferring from the county to the state the responsibility for the cost of and responsibility for providing legal counsel in cases involving the commitment of sexually dangerous individuals under chapter 25-03.3. The legislative council shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-second legislative assembly.

Approved April 8, 2009
Filed April 9, 2009

CHAPTER 491**HOUSE BILL NO. 1545**

(Representatives Ekstrom, Clark, Vig)

(Senators Anderson, Schneider)

AN ACT to provide for a legislative council study relating to the feasibility and desirability of creating a new type of limited liability company called a low-profit limited liability company.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. LEGISLATIVE COUNCIL STUDY - LOW-PROFIT LIMITED LIABILITY COMPANIES. During the 2009-10 interim, the legislative council shall consider studying the feasibility and desirability of creating a new type of limited liability company called a low-profit limited liability company. The legislative council shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-second legislative assembly.

Approved April 8, 2009

Filed April 9, 2009

CHAPTER 492**HOUSE BILL NO. 1562**

(Representatives Schneider, R. Kelsch, L. Meier)
(Senators Holmberg, Mathern)

AN ACT to provide for a legislative council study of an administrative leave program for state employees to attend certain hearings or meetings.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**SECTION 1. LEGISLATIVE COUNCIL STUDY - ADMINISTRATIVE LEAVE.**

The legislative council shall consider studying, during the 2009-10 interim, the feasibility and desirability of an administrative leave program for use by executive branch agencies to allow employees to attend legislative hearings or meetings, grievance meetings, disciplinary hearings, labor and management meetings, negotiating sessions, or other meetings or activities jointly agreed upon by the chief administrative officer of the employing agency. The legislative council shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-second legislative assembly.

Approved April 21, 2009
Filed April 22, 2009

CHAPTER 493**HOUSE BILL NO. 1573**

(Representatives Hofstad, D. Johnson, Potter, Weisz)
(Senators J. Lee, Oehlke)

AN ACT to provide for a legislative council study of voucher use and provider choice for clients in human services and other programs and for funding of human services and other state programs.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. LEGISLATIVE COUNCIL STUDY - VOUCHER USE AND PROVIDER CHOICE. During the 2009-10 interim, the legislative council shall consider conducting a comprehensive study of voucher use and provider choice for clients in various human services and other state programs, including programs related to mental health services, addiction treatment, counseling services, transition services, various home services, and other special services. The study must explore the extent to which vouchers are currently used in federal and state human service programs and other programs, how voucher systems are implemented, and the advantages and challenges posed by the use of vouchers as a mechanism for expanding service options and maximizing client choices. The study also must include a comprehensive review of funding for human services and other state programs, focusing on the feasibility of improving access to care and providers for clients through the use of a voucher system, including programs related to mental health services, addiction treatment, counseling services, and transition services. The legislative council shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-second legislative assembly.

Approved April 21, 2009
Filed April 22, 2009

CHAPTER 494**HOUSE BILL NO. 1577**

(Representatives Keiser, Carlson, Boucher, Kasper, Monson, Onstad)
(Approved by the Delayed Bills Committee)

AN ACT to provide for a legislative council study of factors impacting the cost of health insurance and health insurance company reserves.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**SECTION 1. LEGISLATIVE COUNCIL STUDY - HEALTH INSURANCE COST.**

1. During the 2009-10 interim, the legislative council shall consider studying:
 - a. The factors impacting the cost of health insurance. The factors considered in the study must include:
 - (1) Minimum loss ratio;
 - (2) Three tier rating bands;
 - (3) The effect of the federal Employee Retirement Income Security Act, Medicare, Medicaid, and the state children's health insurance program on individual and small group pricing;
 - (4) Options for self-funding, fully insured funding, and combinations of these two methods of funding;
 - (5) Prepaid coverage versus risk coverage;
 - (6) Corporate structure of health insurance companies;
 - (7) Health insurance company subsidiaries;
 - (8) Rate, form, and reserve approval requirements;
 - (9) Statutory barriers to competition and lower costs;
 - (10) The role of health promotion versus risk coverage;
 - (11) Transparency requirements based on tax incentive benefits;
 - (12) Plan design or coverage options;
 - (13) Health service mandates;
 - (14) Uninsured and underinsured North Dakotans;
 - (15) Proposed federal changes in health care coverage;

- (16) The business organization and tax status of health insurance companies and the impact this has on premium rates and reserves; and
 - (17) Other health insurance cost and competition factors.
- b. The impact of health insurance company board member compensation and employee salaries, benefits, and severance packages on health insurance rates and health insurance company reserves.
2. The legislative council shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-second legislative assembly.

Approved April 21, 2009
Filed April 22, 2009

CHAPTER 495**SENATE BILL NO. 2370**

(Senators Fischer, Mathern, Hogue, Wardner)
(Representatives Conrad, Wieland)

AN ACT to provide for a legislative council study of the feasibility and desirability of transferring from the county to the state the responsibility for the cost of expert examinations and the cost and responsibility for providing legal counsel in mental health commitment cases.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. LEGISLATIVE COUNCIL STUDY - MENTAL HEALTH COMMITMENT EXAMINATION AND LEGAL COUNSEL COSTS. During the 2009-10 interim, the legislative council shall consider studying the feasibility and desirability of transferring from the county to the state the responsibility for the cost of expert examinations and the cost and responsibility for providing legal counsel in mental health commitment cases. The legislative council shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-second legislative assembly.

Approved April 9, 2009
Filed April 13, 2009

CHAPTER 496**SENATE BILL NO. 2390**
(Senators Schneider, Grindberg)
(Representatives Glassheim, Thoreson)

AN ACT to provide for a legislative council study of the establishment and development of certified technology parks.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. LEGISLATIVE COUNCIL STUDY - CERTIFIED TECHNOLOGY PARKS. During the 2009-10 interim, the legislative council shall consider studying the establishment and development of certified technology parks. The legislative council shall report its findings and recommendations, together with any legislation necessary to implement the recommendations, to the sixty-second legislative assembly.

Approved April 8, 2009
Filed April 9, 2009

CHAPTER 497**SENATE BILL NO. 2401**

(Senators O'Connell, Olafson)
(Representatives Hunskor, Klein)

AN ACT to provide for a legislative council study relating to requirements for plans and specifications and bids for public improvements.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**SECTION 1. LEGISLATIVE COUNCIL STUDY - PUBLIC IMPROVEMENTS.**

The legislative council shall study, during the 2009-10 interim, public improvement and capital construction bid requirements, plans and specifications, and the employment of architects and engineers. The legislative council shall report its findings and recommendations, together with any legislation necessary to implement the recommendations, to the sixty-second legislative assembly.

Approved April 30, 2009

Filed May 1, 2009

CHAPTER 498**SENATE BILL NO. 2417**

(Senators Fiebiger, Potter)

AN ACT to provide for a legislative council study relating to the state facilitating the reduction of landfill waste and the potential for development of methane processing.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. LEGISLATIVE COUNCIL STUDY - REDUCTION OF LANDFILL WASTE AND DEVELOPMENT OF METHANE PROCESSING. During the 2009-10 interim, the legislative council shall consider studying the feasibility and desirability of the state facilitating the reduction of landfill waste in North Dakota through encouragement and coordination of public and private recycling programs and investigate the potential for development of methane processing from landfills for power generation. The legislative council shall report its findings and recommendations, and any legislation necessary to implement the recommendations, to the sixty-second legislative assembly.

Approved April 22, 2009

Filed April 23, 2009

CHAPTER 499**SENATE BILL NO. 2420**

(Senators Warner, Erbele, Mathern)
(Representatives Ekstrom, Nelson)

AN ACT to provide for legislative council studies relating to child support determinations of income and support obligations and the establishment of a consumers of family services program.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. LEGISLATIVE COUNCIL STUDY. The legislative council shall consider studying, during the 2009-10 interim, child support determination of income and support obligations, the feasibility and desirability of the establishment of an ombudsman program, and coordination of services and resources for parents. The legislative council shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-second legislative assembly.

SECTION 2. LEGISLATIVE COUNCIL STUDY. The legislative council shall consider studying, during the 2009-10 interim, the establishment of an ombudsman program for consumers of child and family services. The legislative council shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-second legislative assembly.

Approved April 22, 2009

Filed April 23, 2009

CHAPTER 500**SENATE BILL NO. 2422**

(Senators Krauter, Kilzer, Robinson)
(Representatives L. Meier, Monson, Rust)

AN ACT relating to a legislative council study of purchasing and procurement.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. PURCHASE AND PROCUREMENT - LEGISLATIVE COUNCIL STUDY. During the 2009-10 interim, the legislative council shall consider studying provisions of the North Dakota Century Code governing the purchase and procurement of goods and services by political subdivisions. The study should address the use of cooperative arrangements for purchasing and procurement in general and specifically for group insurance, employee benefits, and the repair and improvement of facilities. The study also should address the participation of nongovernmental entities in cooperative arrangements for the purchase and procurement of goods and services. The legislative council shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-second legislative assembly.

Approved April 8, 2009

Filed April 9, 2009

CHAPTER 501**HOUSE BILL NO. 1487**

(Representatives Carlson, Boucher)
(Senators Stenehjem, O'Connell)

AN ACT relating to the receipt of federal economic stimulus or fiscal relief funding.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. FEDERAL FISCAL STIMULUS FUNDING - LEGISLATIVE ACTION - EMERGENCY COMMISSION AND BUDGET SECTION APPROVAL. Any federal funds made available to this state under the federal American Recovery and Reinvestment Act of 2009 may be accepted but may be spent only pursuant to appropriation authority provided by the legislative assembly or the approval of the emergency commission and budget section under provisions of chapter 54-16, for the period beginning with the effective date of this Act and ending June 30, 2011. The emergency commission and budget section may approve only the expenditure of federal American Recovery and Reinvestment Act of 2009 competitive grant awards and other funds that the legislative assembly has not indicated an intent to reject.

Approved April 28, 2009
Filed April 29, 2009

CHAPTER 502**SENATE BILL NO. 2336**

(Senators Fischer, Erbele)
(Representatives Hawken, S. Kelsh)

AN ACT to amend and reenact section 54-35-02.7 of the North Dakota Century Code, relating to the creation of a legislative overview committee for water-related topics; and to provide an expiration date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

²⁰⁴ **SECTION 1. AMENDMENT.** Section 54-35-02.7 of the North Dakota Century Code is amended and reenacted as follows:

54-35-02.7. ~~Garrison diversion~~ Water-related topics overview committee - Duties. ~~The legislative council is responsible for legislative overview of the Garrison diversion project and related matters and for any necessary discussions with adjacent states on water-related topics, during each interim, shall appoint a water-related topics overview committee in the same manner as the council appoints other interim committees. The committee must meet quarterly and is responsible for legislative overview of water-related topics and related matters and for any necessary discussions with adjacent states on water-related topics. The committee consists of nine members and the legislative council shall designate the chairman of the committee. The committee shall operate according to the statutes and procedure governing the operation of other legislative council interim committees.~~

SECTION 2. EXPIRATION DATE. This Act is effective through November 30, 2013, and after that date is ineffective.

Approved April 22, 2009
Filed April 23, 2009

²⁰⁴ Section 54-35-02.7 was also amended by section 56 of House Bill No. 1436, chapter 482.

CHAPTER 503**HOUSE BILL NO. 1060**

(Legislative Council)
(Tribal and State Relations Committee)

AN ACT to amend and reenact section 54-35-23 of the North Dakota Century Code, relating to extension of the committee on tribal and state relations.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

²⁰⁵ **SECTION 1. AMENDMENT.** Section 54-35-23 of the North Dakota Century Code is amended and reenacted as follows:

54-35-23. (Effective through July 31, 2009 2011) Committee on tribal and state relations - Membership - Duties.

1. The committee on tribal and state relations is composed of seven members as follows:
 - a. The chairman of the legislative council or the chairman's designee;
 - b. Three members of the house of representatives, two of whom must be selected by the leader representing the majority faction of the house of representatives and one of whom must be selected by the leader representing the minority faction of the house of representatives; and
 - c. Three members of the senate, two of whom must be selected by the leader representing the majority faction of the senate and one of whom must be selected by the leader representing the minority faction of the senate.
2. The chairman of the legislative council, or the chairman's designee, shall serve as chairman of the committee.
3. The committee shall meet at such times and places as determined by the chairman. The legislative council shall provide staffing for the committee.
4. The committee shall conduct joint meetings with the native American tribal citizens' task force to study tribal-state issues, including government-to-government relations, the delivery of services, case management services, child support enforcement, and issues related to the promotion of economic development. After the joint meetings have concluded, the committee shall meet to prepare a report on its findings

²⁰⁵ Section 54-35-23 was also amended by section 74 of House Bill No. 1436, chapter 482.

and recommendations, together with any legislation required to implement those recommendations, to the legislative council.

5. The members of the committee are entitled to compensation from the legislative council for attendance at committee meetings at the rate provided for members of the legislative assembly for attendance at interim committee meetings and are entitled to reimbursement for expenses incurred in attending the meetings in the amounts provided by law for other state officers.
6. a. The native American tribal citizens' task force is composed of six members as follows:
 - (1) The executive director of the Indian affairs commission, or the executive director's designee;
 - (2) The chairman of the Standing Rock Sioux Tribe, or the chairman's designee;
 - (3) The chairman of the Spirit Lake Tribe, or the chairman's designee;
 - (4) The chairman of the Three Affiliated Tribes of the Fort Berthold Reservation, or the chairman's designee;
 - (5) The chairman of the Turtle Mountain Band of Chippewa Indians, or the chairman's designee; and
 - (6) The chairman of the Sisseton-Wahpeton ~~Sioux Tribe~~ Oyate of the Lake Traverse Reservation, or the chairman's designee.
- b. If the executive director of the Indian affairs commission or any of the tribal chairmen appoint a designee to serve on the task force, only one individual may serve as that designee during the biennium. A substitute designee may be appointed by the executive director of the Indian affairs commission or a tribal chairman in the event of the death, incapacity, resignation, or refusal to serve of the initial designee.

Approved April 8, 2009
Filed April 9, 2009

CHAPTER 504**SENATE BILL NO. 2029**
(Legislative Council)
(Commission on Alternatives to Incarceration)

AN ACT to amend and reenact section 54-35-24 of the North Dakota Century Code, relating to the expiration date of the commission on alternatives to incarceration; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

²⁰⁶ **SECTION 1. AMENDMENT.** Section 54-35-24 of the North Dakota Century Code is amended and reenacted as follows:

54-35-24. (Effective through ~~June 30~~ August 1, 2009 ~~2013~~) Commission on alternatives to incarceration.

1. The commission on alternatives to incarceration is composed of:
 - a. Three members appointed by the governor, one of whom must be an academic researcher with specialized knowledge of criminal justice sentencing practices and sentencing alternatives;
 - b. The attorney general or the attorney general's designee;
 - c. Two members appointed by the chief justice of the supreme court;
 - d. The director of the department of corrections and rehabilitation;
 - e. The director of the department of human services;
 - f. Two local law enforcement officers appointed by the attorney general;
 - g. One state's attorney appointed by the North Dakota state's attorney's association;
 - h. Three members of the house of representatives, two of whom must be selected by the leader representing the majority faction of the house of representatives and one of whom must be selected by the leader representing the minority faction of the house of representatives;
 - i. Three members of the senate, two of whom must be selected by the leader representing the majority faction of the senate and one

²⁰⁶ Section 54-35-24 was also amended by section 97 of House Bill No. 1436, chapter 482.

of whom must be selected by the leader representing the minority faction of the senate; and

- j. One representative of the North Dakota association of counties appointed by the association of counties.
2. The chairman of the legislative council shall select the chairman and vice chairman of the commission from the legislative members of the commission.
3. The commission shall meet at the times and places as determined by the chairman. The legislative council shall provide staffing for the commission.
4. The commission shall study sentencing alternatives, mandatory sentences, treatment options, the expanded use of problem-solving courts, home monitoring, and other related issues. If the commission determines that consultant services are necessary to assist the commission in conducting its assigned studies, the commission may request funding for consultant services from the legislative council and other interested entities. The commission shall provide to the governor information and recommendations for the governor's consideration in time for inclusion of the recommendations in the biennial executive budget. The commission shall report its findings and recommendations together with any legislation required to implement those recommendations to the legislative council.
5. The members of the commission who are not state employees or members of the legislative assembly are entitled to mileage and expenses as provided by law for state officers and employees. Unless otherwise provided in this subsection, the expenses of appointed members are to be paid by the legislative council. A state employee who is a member of the commission must receive that employee's regular salary and is entitled to mileage and expenses, to be paid by the employing agency. The members of the commission who are members of the legislative assembly are entitled to compensation from the legislative council for attendance at commission meetings at the rate provided for members of the legislative assembly for attendance at interim committee meetings and are entitled to reimbursement for expenses incurred in attending the meetings in the amounts provided by law for other state officers.

SECTION 2. EMERGENCY. This Act is declared to be an emergency measure.

Approved March 19, 2009
Filed March 19, 2009

CHAPTER 505**HOUSE BILL NO. 1059**

(Legislative Council)
(Tribal and State Relations Committee)

AN ACT to amend and reenact sections 54-36-01 and 54-36-03 of the North Dakota Century Code, relating to the members and the powers and duties of the Indian affairs commission; and to provide a continuing appropriation.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 54-36-01 of the North Dakota Century Code is amended and reenacted as follows:

54-36-01. Commission - Members - Officers - Expenses of members.

The North Dakota Indian affairs commission consists of the governor, three members appointed by the governor from the state at large, two of whom must be of Indian descent, must be enrolled members of a tribe, and must be current voting residents of the state of North Dakota, and the chairperson, or the chairperson's designee, of the Standing Rock Sioux Tribe; the Spirit Lake Tribe; the Three Affiliated Tribes of the Fort Berthold Reservation; the Turtle Mountain Band of Chippewa Indians; and the Sisseton-Wahpeton Oyate of the Lake Traverse Reservation. The governor is the chairperson of the commission. The commission shall meet quarterly or as otherwise agreed. Members of the commission or the chairperson's designee are entitled to receive mileage and expenses for attending each meeting as are allowed other state officers.

SECTION 2. AMENDMENT. Section 54-36-03 of the North Dakota Century Code is amended and reenacted as follows:

54-36-03. Powers and duties - Continuing appropriation.

The Indian affairs commission ~~shall have the power to~~ may assist and ~~to~~ mobilize the support of state and federal agencies in assisting Indian individuals and groups in North Dakota, especially the five tribal councils, as ~~they~~ the Indian individuals and tribal councils seek to develop their own goals, project plans for achieving those goals, and implement those plans. The commission may accept gifts, grants, donations, and services from any source which are appropriated on a continuing basis for the purposes of the commission. The commission's duties are to:

1. ~~To investigate~~ Investigate any phase of Indian affairs and to assemble and make available the facts needed by tribal, state, and federal agencies to work effectively together.
2. ~~To assist~~ Assist tribal, state, and federal agencies in developing programs whereby Indian citizens may achieve more adequate standards of living.
3. ~~To assist~~ Assist tribal groups in developing increasingly effective institutions of self-government.
4. ~~To work~~ Work for greater understanding and improved relationships between Indians and non-Indians.

5. ~~To seek~~ Seek increased participation by Indian citizens in local and state affairs.
6. ~~To confer~~ Confer with and coordinate officials and agencies of other governmental units and congressional committees with regard to Indian needs and goals.
7. ~~To encourage~~ Encourage and propose agreements and accords between federal, state, and local agencies and the several tribal governments, and, pursuant to chapter 54-40.2, to assist in monitoring and negotiating agreements and accords when ~~asked~~ requested by an affected tribe.

Approved April 24, 2009

Filed April 29, 2009

CHAPTER 506**SENATE BILL NO. 2425**

(Senators Heckaman, Holmberg, Krauter, O'Connell, Wardner)
(Representative Boucher)

AN ACT to create and enact a new subsection to section 54-44-04 of the North Dakota Century Code, relating to requiring the director of the office of management and budget to develop a report for the construction of all facilities occupied by state agencies on the capitol grounds.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

²⁰⁷ **SECTION 1.** A new subsection to section 54-44-04 of the North Dakota Century Code is created and enacted as follows:

Shall prepare and submit to the legislative council by October 1, 2010, a report including the location, expenses, and square footage requirements of all facilities occupied by each state agency. The report must include recommendations for relocation of any entity to achieve improvements in service to the public along with optimal efficiencies in usage of space and cost. The report must include recommendations within the master plan for construction of buildings on the capitol grounds.

Approved April 22, 2009
Filed April 23, 2009

²⁰⁷ Section 54-44-04 was also amended by section 98 of House Bill No. 1436, chapter 482.

CHAPTER 507**SENATE BILL NO. 2131**

(Government and Veterans Affairs Committee)
(At the request of the Office of Management and Budget)

AN ACT to amend and reenact section 54-44-04.6 of the North Dakota Century Code, relating to service charges for recycling and disposal of surplus property; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 54-44-04.6 of the North Dakota Century Code is amended and reenacted as follows:

54-44-04.6. State surplus property - Department heads to inform director - Disposition of property - Proceeds - Exchange of property.

1. The person in charge of any department, agency, or institution of the state shall inform the director of the office of management and budget or the director's designee whenever that department, agency, or institution possesses property surplus to its needs, whether originally obtained with state or other funds.
2. Political subdivisions may provide their surplus property to the office of management and budget for disposition according to subsections 3, 4, and 5.
3. Surplus property must be transferred at fair market value to state agencies, political subdivisions, and nonprofit organizations eligible to receive federal surplus property under the Federal Property Administrative Services Act of 1949, as amended. Eligible organizations must be notified of the availability of property on a regular basis.
4. If not disposed of under subsection 3, then by sale on sealed bids or at public auction to the highest and best bidder for property valued at more than three thousand dollars, with no money deposit required prior to sale, or by sealed bids, public auction, or negotiation at fair value for property valued at less than three thousand dollars. The office of management and budget may establish a program for the recycling and disposal of surplus property determined to be unsalable and may assess and collect service charges from the department, agency, institution, or political subdivision from which the property was received to cover direct and reasonable costs of this service.
5. All proceeds received from the transfer of, sale, recycling, or disposal of surplus property must be deposited with the state treasurer for deposit in the surplus property operating fund. For each piece of property sold for less than three thousand dollars, all proceeds must be retained in the surplus property operating fund unless the office of management and budget determines the sale proceeds are subject to special requirements for distribution. For each piece of property sold for three

thousand dollars or more, the office of management and budget shall transfer to the agency from which the property was received an amount equal to the proceeds of the sale less the administrative expenses of the sale. The agency shall deposit the proceeds into the fund from which the property was originally purchased. At the end of each biennium, the office of management and budget shall transfer all funds in the surplus property operating fund that exceed the amount needed for operating the surplus property function for one year to the general fund.

SECTION 2. EMERGENCY. This Act is declared to be an emergency measure.

Approved April 22, 2009

Filed April 23, 2009

CHAPTER 508**HOUSE BILL NO. 1460**

(Representatives Berg, Kaldor)

AN ACT to create a state property and institution alternative use grant program.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. State property and institution alternative use grant program. State institutions may work with local communities and stakeholders to develop proposed property or institution alternative use plans, including partnerships with private industry and not-for-profit organizations, to be reviewed by the office of management and budget. In accordance with the provisions of the community and institution approved plan, the office of management and budget shall introduce any statutory and constitutional changes necessary to implement the plan and request funding for the grant under this section for consideration by the legislative assembly. Subject to approval of all necessary statutory and constitutional changes and necessary legislative appropriations, the office of management and budget shall provide a grant up to the present value of the total estimated savings to the state for the next ten years resulting from converting the property or institution to an alternative use. The office of management and budget shall consider the estimated cost to the state of continuing to provide the service of the institution or property to state residents when calculating the estimated savings to the state. The office of management and budget shall use the rate of interest earned on state funds deposited at the Bank of North Dakota for calculating the present value of the estimated savings to the state. The grant is to assist the institution and community in the transition to an alternative use.

Approved April 9, 2009

Filed April 13, 2009

CHAPTER 509**SENATE BILL NO. 2061**

(Legislative Council)
(Workforce Committee)

AN ACT to provide for human resource management services to study workforce recruitment and retention and report to the legislative council.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**SECTION 1. HUMAN RESOURCE MANAGEMENT SERVICES STUDY - WORKFORCE RETENTION - REPORT TO THE LEGISLATIVE COUNCIL.**

1. Human resource management services shall conduct a study to evaluate steps the state could take to recruit and retain state employees in state government employment as those state employees reach retirement. As part of the study, human resource management services shall:
 - a. Select four state agencies with employees who occupy positions in the classified service to determine what actual and perceived barriers exist for retention and to determine what steps the state could take to increase retention of state employees who are retiring or nearing retirement.
 - b. Survey agency heads and employees of the selected state agencies to determine perceived and actual barriers to retaining state employees.
 - c. Consider steps the state could take to retain employees in the employing agency and steps the state could take to retain employees in state government employment in a different agency.
 - d. Consider steps other public employers have taken to retain their workforce as members of their workforce near retirement.
2. State agencies shall cooperate with human resource management services in conducting this study, including the North Dakota public employees retirement board and alternative retirement systems.
3. Before July 1, 2010, the director of human resource management services shall report to the legislative council on the outcome of the study, including specific recommendations of legislative and nonlegislative actions the state could take to address the issue of state employee workforce retention.

Approved April 8, 2009
Filed April 9, 2009

CHAPTER 510**HOUSE BILL NO. 1113**

(Government and Veterans Affairs Committee)
(At the request of the Office of Management and Budget)

AN ACT to amend and reenact section 54-44.3-12.2 of the North Dakota Century Code, relating to state employee complaint appeals.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 54-44.3-12.2 of the North Dakota Century Code is amended and reenacted as follows:

54-44.3-12.2. Employee complaints - Cooperation in development and implementation of basic agency grievance procedures and a statewide appeal mechanism - Appeals. It is the intent of the state of North Dakota to assure fair and equitable treatment and promote harmony between and among all classified employees: ~~To ensure this the state desires by requiring affected agencies to adopt grievance procedures and through the creation of a statewide appeals mechanism with primary jurisdiction to entertain and resolve classified employee appeals.~~ It is the policy of this state to resolve bona fide employee complaints as quickly as possible. The division shall cooperate with and assist the various departments, agencies, and institutions of the state in the development and implementation of basic agency grievance procedures and a statewide appeal mechanism. The division shall certify appeals from nonprobationary employees in the classified service which are related to discrimination, merit system qualification, reprisals, reduction in force, forced relocation, demotion with loss of pay, suspension without pay, and dismissal, and from applicants for positions in the classified service and probationary employees in the classified service which are related to discrimination or reprisal. Upon receipt of an appeal, the division shall submit a written request to the director of the office of administrative hearings to designate an administrative ~~hearing officer~~ law judge for the division to conduct the hearing and related proceedings, including receiving evidence and preparing findings of fact, conclusions of law, and issuing a final decision. The moving party in the initial action bears the burden of proof in the appeal. An appeal to the district court from the determination of the administrative ~~hearing officer~~ law judge must be filed according to chapter 28-32, including proper service upon the division, but neither the division nor the office of administrative hearings may be named as a party to the appeal under chapter 28-32 unless an employee of one of those two agencies is involved in the grievance.

Approved April 21, 2009
Filed April 22, 2009

CHAPTER 511**HOUSE BILL NO. 1067**

(Representatives Wald, Skarphol, Grande)
(Senators O'Connell, Wardner, Triplett)

AN ACT to amend and reenact section 54-44.3-20 of the North Dakota Century Code, relating to exempting engineers and geologists employed by the director of mineral resources from classified service.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

²⁰⁸ **SECTION 1. AMENDMENT.** Section 54-44.3-20 of the North Dakota Century Code is amended and reenacted as follows:

54-44.3-20. Categories of positions in the state service. All positions in the state service are included in the classified service except:

1. Each official elected by popular vote and each person appointed to fill vacancies in an elective office, one principal assistant, and one private secretary.
2. Members of boards and commissions required by law.
3. Administrative heads of departments required by law, other than the superintendent of North Dakota vision services - school for the blind, the superintendent of the school for the deaf, and the state librarian.
4. Officers and employees of the legislative branch of government.
5. Members of the judicial branch of government of the state of North Dakota and their employees and jurors.
6. Persons temporarily employed in a professional or scientific capacity as consultants or to conduct a temporary and special inquiry, investigation, or examination for the legislative branch of government or a department of the state government.
7. Positions deemed to be inappropriate to the classified service due to the special nature of the position as determined by the division and approved by the board.
8. Employees of the institutions of higher education under the control of the state board of higher education.
9. Members and employees of occupational and professional boards.

²⁰⁸ Section 54-44.3-20 was also amended by section 1 of House Bill No. 1464, chapter 611.

10. Officers and employees of the North Dakota mill and elevator association.
11. The director of the committee on employment of people with disabilities of the department of human services.
12. Positions referred to under law as serving at the pleasure of or at the will of the appointing authority.
13. Licensed teachers engaged in teaching at the North Dakota youth correctional center, North Dakota vision services - school for the blind, and the school for the deaf.
14. Officers and employees of workforce safety and insurance.
15. Officers and employees of the department of commerce.
16. Attorneys employed by the insurance commissioner.
17. Engineers and geologists employed by the director of mineral resources.

Approved April 8, 2009
Filed April 9, 2009

CHAPTER 512**HOUSE BILL NO. 1575**

(Representatives Grande, Wald)
(Senators Krebsbach, Lyson)

AN ACT to create and enact a new section to chapter 54-52 of the North Dakota Century Code, relating to participation by peace officers employed by the bureau of criminal investigation in the defined benefit retirement plan; to amend and reenact subsection 11 of section 54-52-01, subsection 3 of section 54-52-05, and subsection 3 of section 54-52-17 of the North Dakota Century Code, relating to participation by peace officers employed by the bureau of criminal investigation in the defined benefit retirement plan; and to provide an appropriation.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 11 of section 54-52-01 of the North Dakota Century Code is amended and reenacted as follows:

11. "Peace officer" means a participating member who is a peace officer as defined in section 12-63-01 and is employed as a peace officer by the bureau of criminal investigation or by a political subdivision and, notwithstanding subsection 12, for persons employed after August 1, 2005, is employed thirty-two hours or more per week and at least twenty weeks each year of employment. Participating members of the law enforcement retirement plan created by this chapter who begin employment after August 1, 2005, are ineligible to participate concurrently in any other retirement plan administered by the public employees retirement system.

²⁰⁹ **SECTION 2. AMENDMENT.** Subsection 3 of section 54-52-05 of the North Dakota Century Code is amended and reenacted as follows:

3. Each employer, at its option, may pay all or a portion of the employee contributions required by subsection 2 and sections 54-52-06.1, 54-52-06.2, ~~and 54-52-06.3,~~ and section 3 of this Act or the employee contributions required to purchase service credit on a pretax basis pursuant to subsection 5 of section 54-52-17.4. Employees may not receive the contributed amounts directly once the employer has elected to pay the employee contributions. The amount paid must be paid by the employer in lieu of contributions by the employee. If the state determines not to pay the contributions, the amount that would have been paid must continue to be deducted from the employee's compensation. If contributions are paid by the employer, they must be treated as employer contributions in determining tax treatment under this code and the federal Internal Revenue Code. If contributions are

²⁰⁹ Section 54-52-05 was also amended by section 8 of Senate Bill No. 2153, chapter 514.

paid by the employer, they may not be included as gross income of the employee in determining tax treatment under this code and the Internal Revenue Code until they are distributed or made available. The employer shall pay these employee contributions from the same source of funds used in paying compensation to the employee or from the levy authorized by subsection 5 of section 57-15-28.1. The employer shall pay these contributions by effecting an equal cash reduction in the gross salary of the employee or by an offset against future salary increases or by a contribution of a reduction in gross salary and offset against future salary increases. If employee contributions are paid by the employer, they must be treated for the purposes of this chapter in the same manner and to the same extent as employee contributions made prior to the date on which employee contributions were assumed by the employer. An employer exercising its option under this subsection shall report its choice to the board in writing.

SECTION 3. A new section to chapter 54-52 of the North Dakota Century Code is created and enacted as follows:

Contribution by peace officers employed by the bureau of criminal investigation - Employer contribution. Each peace officer employed by the bureau of criminal investigation who is a member of the public employees retirement system is assessed and shall pay monthly four percent of the employee's monthly salary. The assessment must be deducted and retained out of the employee's salary in equal monthly installments. The peace officer's employer shall contribute an amount determined by the board to be actuarially required to support the level of benefits specified in section 54-52-17. The employer's contribution must be paid from funds appropriated for salary or from any other funds available for such purposes. If the peace officer's assessment is paid by the employer under subsection 3 of section 54-52-05, the employer shall contribute, in addition, an amount equal to the required peace officer's assessment.

²¹⁰ **SECTION 4. AMENDMENT.** Subsection 3 of section 54-52-17 of the North Dakota Century Code is amended and reenacted as follows:

3. Retirement dates are defined as follows:

- a. Normal retirement date, except for a national guard security officer or firefighter or a peace officer or correctional officer employed by the bureau of criminal investigation or by a political subdivision, is:
 - (1) The first day of the month next following the month in which the member attains the age of sixty-five years; or
 - (2) When the member has a combined total of years of service credit and years of age equal to eighty-five and has not received a retirement benefit under this chapter.
- b. Normal retirement date for a national guard security officer or firefighter is the first day of the month next following the month in

²¹⁰ Section 54-52-17 was also amended by section 9 of Senate Bill No. 2153, chapter 514, and section 10 of Senate Bill No. 2153, chapter 514.

which the national guard security officer or firefighter attains the age of fifty-five years and has completed at least three consecutive years of employment as a national guard security officer or firefighter immediately preceding retirement.

- c. Normal retirement date for a peace officer or correctional officer employed by a political subdivision is:
 - (1) The first day of the month next following the month in which the peace officer or correctional officer attains the age of fifty-five years and has completed at least three consecutive years of employment as a peace officer or correctional officer immediately preceding retirement; or
 - (2) When the peace officer or correctional officer has a combined total of years of service credit and years of age equal to eighty-five and has not received a retirement benefit under this chapter.
- d. Normal retirement date for a peace officer employed by the bureau of criminal investigation is:
 - (1) The first day of the month next following the month in which the peace officer attains the age of fifty-five years and has completed at least three consecutive years of employment as a peace officer immediately preceding retirement; or
 - (2) When the peace officer has a combined total of years of service credit and years of age equal to eighty-five and has not received a retirement benefit under this chapter.
- e. Postponed retirement date is the first day of the month next following the month in which the member, on or after July 1, 1977, actually severs or has severed the member's employment after reaching the normal retirement date.
- e- f. Early retirement date, except for a national guard security officer or firefighter or a peace officer or correctional officer employed by the bureau of criminal investigation or by a political subdivision, is the first day of the month next following the month in which the member attains the age of fifty-five years and has completed three years of eligible employment. For a national guard security officer or firefighter, early retirement date is the first day of the month next following the month in which the national guard security officer or firefighter attains the age of fifty years and has completed at least three years of eligible employment. For a peace officer or correctional officer employed by the bureau of criminal investigation or by a political subdivision, early retirement date is the first day of the month next following the month in which the peace officer or correctional officer attains the age of fifty years and has completed at least three years of eligible employment.
- f. g. Disability retirement date is the first day of the month after a member becomes permanently and totally disabled, according to medical evidence called for under the rules of the board, and has completed at least one hundred eighty days of eligible

employment. For supreme and district court judges, permanent and total disability is based solely on a judge's inability to perform judicial duties arising out of physical or mental impairment, as determined pursuant to rules adopted by the board or as provided by subdivision a of subsection 3 of section 27-23-03. A member is eligible to receive disability retirement benefits only if the member:

- (1) Became disabled during the period of eligible employment; and
- (2) Applies for disability retirement benefits within twelve months of the date the member terminates employment.

A member is eligible to continue to receive disability benefits as long as the permanent and total disability continues and the member submits the necessary documentation and undergoes medical testing required by the board, or for as long as the member participates in a rehabilitation program required by the board, or both. If the board determines that a member no longer meets the eligibility definition, the board may discontinue the disability retirement benefit. The board may pay the cost of any medical testing or rehabilitation services it deems necessary and these payments are appropriated from the retirement fund for those purposes.

SECTION 5. APPROPRIATION. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$185,946, or so much of the sum as may be necessary, and \$15,164 in other funds, or so much of the sum as may be necessary, to the attorney general for the purpose of implementing this Act, for the biennium beginning July 1, 2009, and ending June 30, 2011.

Approved April 21, 2009
Filed April 22, 2009

CHAPTER 513**SENATE BILL NO. 2154**

(Government and Veterans Affairs Committee)

(At the request of the Public Employees Retirement System Board)

AN ACT to amend and reenact sections 54-52-02.9 and 54-52-27, subsection 1 of section 54-52.1-03.2, and subsection 2 of section 54-52.1-03.3 of the North Dakota Century Code, relating to participation in the public employees retirement system, purchase of sick leave credit, and the retiree health benefits fund.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 54-52-02.9 of the North Dakota Century Code is amended and reenacted as follows:

54-52-02.9. Participation by temporary employees. A temporary employee may elect, within one hundred eighty days of beginning employment, to participate in the public employees retirement system and receive credit for service after enrollment. The temporary employee shall pay monthly to the fund an amount equal to eight and twelve-hundredths percent times the temporary employee's present monthly salary. The temporary employee shall also pay the required monthly contribution to the retiree health benefit fund established under section 54-52.1-03.2 ~~one percent times the temporary employee's present monthly salary~~. This contribution must be recorded as a member contribution pursuant to section 54-52.1-03.2. An employer may not pay the temporary employee's contributions. A temporary employee may continue to participate as a temporary employee in the public employees retirement system until termination of employment or reclassification of the temporary employee as a permanent employee. A temporary employee may not purchase any additional credit, including additional credit under section 54-52-17.4 or past service under section 54-52-02.6.

SECTION 2. AMENDMENT. Section 54-52-27 of the North Dakota Century Code is amended and reenacted as follows:

54-52-27. Purchase of sick leave credit. A member is entitled to credit in the retirement system for each month of unused sick leave, as certified by the member's employer, if the member or the member's employer pays an amount equal to the member's final average salary, times the number of months of sick leave converted, times the percent of employer and employee contributions to the retirement program of the member, plus ~~one percent~~ the required contribution for the retiree health benefits program. Hours of sick leave equal to a fraction of a month are deemed to be a full month for purposes of conversion to service credit. A member may convert all of the member's certified sick leave or a part of the member's certified sick leave. All conversion payments must be made within sixty days of termination of employment and before the member receives a retirement annuity unless the member has submitted an approved payment plan to the board.

SECTION 3. AMENDMENT. Subsection 1 of section 54-52.1-03.2 of the North Dakota Century Code is amended and reenacted as follows:

1. The board shall establish a retiree health benefits fund account with the Bank of North Dakota for the purpose of prefunding and providing hospital benefits coverage and medical benefits coverage under the uniform group insurance program for retired eligible employees or surviving spouses of retired eligible employees and their dependents as provided in this chapter. The state shall contribute monthly to the retiree health benefits fund an amount equal to one and fourteen hundredths percent of the monthly salaries and wages of all participating members of the highway patrolmen's retirement system under chapter 39-03.1, and one and fourteen hundredths percent of the monthly salaries of all supreme or district court judges who are participating members of the public employees retirement system under chapter 54-52. Each governmental unit that contributes to the public employees retirement system fund under section 54-52-06 or the retirement plan under chapter 54-52.6 shall contribute monthly to the retiree health benefits fund an amount equal to one and fourteen hundredths percent of the monthly salaries or wages of all participating members of the public employees retirement system under chapter 54-52 or chapter 54-52.6, except for nonteaching employees of the superintendent of public instruction who elect to participate in the public employees retirement system pursuant to section 54-52-02.13 and employees of the state board for career and technical education who elect to participate in the public employees retirement system pursuant to section 54-52-02.14. For nonteaching employees of the superintendent of public instruction who elect to participate in the public employees retirement system pursuant to section 54-52-02.13, the superintendent of public instruction shall contribute monthly to the retiree health benefits fund an amount equal to three and ~~one-tenth~~ twenty-four hundredths percent of the monthly salaries or wages of those nonteaching employee members, beginning on the first of the month following the transfer under section 54-52-02.13 and continuing thereafter for a period of eight years, after which time the superintendent of public instruction shall contribute one and fourteen hundredths percent of the monthly salary or wages of those nonteaching employee members. For employees of the state board for career and technical education who elect to participate in the public employees retirement system pursuant to section 54-52-02.14, the state board for career and technical education shall contribute monthly to the retiree health benefits fund an amount equal to two and ~~eighty-five~~ ninety-nine hundredths percent of the monthly salary or wages of those employee members, beginning on the first of the month following the transfer under section 54-52-02.14 and continuing thereafter for a period of eight years, after which time the state board for career and technical education shall contribute one and fourteen hundredths percent of the monthly salary or wages of those employee members. The employer of a national guard security officer or firefighter shall contribute monthly to the retiree health benefits fund an amount equal to one and fourteen hundredths percent of the monthly salaries or wages of all national guard security officers or firefighters participating in the public employees retirement system under chapter 54-52. Job service North Dakota shall reimburse monthly the retiree health benefits fund for credit received under section 54-52.1-03.3 by members of the retirement program established by job service North Dakota under section 52-11-01. The board, as trustee of the fund and in exclusive control of its administration, shall:

- a. Provide for the investment and disbursement of moneys of the retiree health benefits fund and administrative expenditures in the same manner as moneys of the public employees retirement system are invested, disbursed, or expended.
- b. Adopt rules necessary for the proper administration of the retiree health benefits fund, including enrollment procedures.

SECTION 4. AMENDMENT. Subsection 2 of section 54-52.1-03.3 of the North Dakota Century Code is amended and reenacted as follows:

2. The board shall calculate the allowable monthly credit toward hospital and medical benefits coverage for a person eligible under subsection 1 in an amount equal to ~~four five dollars and fifty cents~~ multiplied by the member's or deceased member's number of years of credited service under the highway patrolmen's retirement system, the public employees retirement system, the retirement program established by job service North Dakota under section 52-11-01, or the judges' retirement program established under chapter 27-17. For a member of the public employees retirement system receiving an early retirement benefit or the surviving spouse of that member, or a former participating member of the defined contribution retirement plan who is receiving a periodic distribution and would not meet the normal retirement provisions of the public employees retirement system, the allowable monthly credit must be reduced by three percent if the member terminates employment within one year prior to attaining the age of sixty-five and an additional reduction factor of six percent shall apply for each year the member terminates employment prior to attaining the age of sixty-four. For a member of the highway patrolmen's retirement system receiving an early retirement benefit or the surviving spouse of that member, the allowable monthly credit must be reduced by three percent if the member terminates employment within one year prior to attaining the age of fifty-five and an additional reduction factor of six percent shall apply for each year the member terminates employment prior to attaining the age of fifty-four. For a member of the retirement program established by job service North Dakota under section 52-11-01 receiving an early retirement benefit or a discontinued service annuity under the plan provisions of that retirement program or the surviving spouse of that member, the allowable monthly credit must be reduced by three percent if the member terminates employment within one year prior to attaining the age of sixty-five and an additional reduction factor of six percent applies for each year the member terminates employment prior to attaining the age of sixty-four.

Approved April 28, 2009
Filed May 1, 2009

CHAPTER 514**SENATE BILL NO. 2153**

(Government and Veterans Affairs Committee)

(At the request of the Public Employees Retirement System Board)

AN ACT to create and enact a new subsection to section 39-03.1-09, a new subdivision to subsection 9 of section 39-03.1-11, a new subsection to section 54-52-05, and a new subdivision to subsection 9 of section 54-52-17 of the North Dakota Century Code, relating to payment of employee contributions and retirement benefits under the highway patrolmen's retirement plan and the public employees retirement system; to amend and reenact subsection 1 of section 21-10-01, section 39-03.1-08.2, subdivision a of subsection 1 of section 39-03.1-10.1, section 39-03.1-11.2, subsection 4 of section 54-52-03, subsections 6 and 7 of section 54-52-17, section 54-52-28, subsection 7 of section 54-52.1-03, and section 54-52.1-03.4 of the North Dakota Century Code, relating to membership of the state investment board, purchase of service credit, member refunds, Internal Revenue Code compliance, and board elections under the highway patrolmen's retirement plan and the public employees retirement system, and participation and employer payments under the uniform group insurance program; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 1 of section 21-10-01 of the North Dakota Century Code is amended and reenacted as follows:

1. The North Dakota state investment board consists of the governor, the state treasurer, the commissioner of university and school lands, the director of workforce safety and insurance, the insurance commissioner, three members of the teachers' fund for retirement board or the board's designees who need not be members of the fund as selected by that board, ~~and three~~ two of the elected members of the public employees retirement system board as selected by that board, and one member of the public employees retirement system board as selected by that board. The director of workforce safety and insurance may appoint a designee, subject to approval by the workforce safety and insurance board of directors, to attend the meetings, participate, and vote when the director is unable to attend. The teachers' fund for retirement board may appoint an alternate designee with full voting privileges to attend meetings of the state investment board when a selected member is unable to attend. The public employees retirement system board may appoint an alternate designee with full voting privileges from the public employees retirement system board to attend meetings of the state investment board when a selected member is unable to attend. The members of the state investment board, except elected and appointed officials and the director of workforce safety and insurance or the director's designee, are entitled to receive as compensation sixty-two dollars and fifty cents per day and necessary mileage and travel expenses as provided in sections 44-08-04 and 54-06-09 for attending meetings of the state investment board.

SECTION 2. AMENDMENT. Section 39-03.1-08.2 of the North Dakota Century Code is amended and reenacted as follows:

39-03.1-08.2. Purchase of additional service credit.

1. The fund may accept rollovers from other eligible plans under rules adopted by the board for the purchase of additional service credit, but only to the extent the transfer is a rollover contribution that meets the requirement of section 408 of the Internal Revenue Code [26 U.S.C. 408].
2. ~~Except as provided in subsection 3 of section 39-03.1-10.1, a contributor is entitled to purchase additional credit under this section for active employment in the armed forces of the United States, for up to four years of credit, if the contributor is not presently receiving credit for that service. A contributor may not purchase credit under this subsection if the years claimed also qualify for retirement benefits from another retirement system.~~
3. ~~A contributor may elect to purchase credit for an employer-approved leave of absence if the contributor is not presently receiving credit for that absence.~~
4. The board may accept trustee-to-trustee transfers as permitted by Internal Revenue Code section 403(b)(13) and section 457(e)(17) from an Internal Revenue Code section 403(b) annuity or Internal Revenue Code section 457 deferred compensation plan for the purchase of permissive service credit, as defined in Internal Revenue Code section 415(n)(3)(A), or as repayment of a cashout from a governmental plan under Internal Revenue Code section 415(k)(3).
3. A contributor may elect to purchase credit for years of service and prior service for which the contributor is not presently receiving credit. A contributor is entitled to purchase additional credit under this section for the following service or prior service, except this service is not eligible for credit if the years claimed also qualify for retirement benefits from another retirement system:
 - a. Except as provided in subsection 3 of section 39-03.1-10.1, up to four years of credit for active employment in the armed forces of the United States.
 - b. Employment as a permanent employee by a public employer either within or outside the state.
 - c. Employment as a permanent employee by the federal government.
4. A contributor may elect to purchase credit for the following absences for which the participating contributor is not receiving service credit:
 - a. Employer-approved leave of absence; and
 - b. Months away from work while participating as a seasonal employee.

5. The contributor may purchase credit under this section by paying to the board an amount equal to the actuarial cost to the fund of providing the credit. The board shall adopt rules governing the purchase of additional credit under this section.
6. The board may establish individual retirement accounts and individual retirement annuities as permitted under section 408(q) of the Internal Revenue Code to allow employees to make voluntary employee contributions. The board may adopt appropriate rules as may be necessary to implement and administer the accounts and annuities under this section.
7. In addition to service credit identified in this section, a contributor may purchase up to five years of service credit.
8. Pursuant to rules adopted by the board, the board may allow a contributor to purchase service credit with either pretax or aftertax moneys, at the board's discretion. If a contributor elects to purchase service credit using pretax moneys, the requirements and restrictions in subsection 2 of section 39-03.1-09 apply to the purchase arrangement.

SECTION 3. A new subsection to section 39-03.1-09 of the North Dakota Century Code is created and enacted as follows:

For compensation earned after August 1, 2009, all employee contributions required under subsection 1, and not otherwise paid under subsection 2, must be paid by the state in lieu of contributions by the member. All contributions paid by the state under this subsection must be treated as employer contributions in determining tax treatment under this code and the federal Internal Revenue Code. Contributions paid by the state under this subsection may not be included as gross income of the member in determining tax treatment under this code and the Internal Revenue Code until the contributions are distributed or made available. Contributions paid by the state in accordance with this subsection must be treated for the purposes of this chapter in the same manner and to the same extent as member contributions made before the date the contributions were assumed by the state. The state shall pay these member contributions from the same source of funds used in paying compensation to the members. The state shall pay these contributions by effecting an equal cash reduction in the gross salary of the employee. The state shall continue making payments under this section unless otherwise specifically provided for under the agency's biennial appropriation or by law.

SECTION 4. AMENDMENT. Subdivision a of subsection 1 of section 39-03.1-10.1 of the North Dakota Century Code is amended and reenacted as follows:

- a. If the contributor has less than ten years of service at termination of employment, the refund is payable either on application of the contributor or, is automatically payable if within thirty days after termination the contributor has not provided a written statement to the board waiving the refund and requesting the contributor's account remain in the fund, ~~automatically~~ and the contributor has an account balance of less than one thousand dollars.

SECTION 5. A new subdivision to subsection 9 of section 39-03.1-11 of the North Dakota Century Code is created and enacted as follows:

An actuarially equivalent graduated benefit option with either a one percent or two percent increase to be applied the first day of January of each year.

SECTION 6. AMENDMENT. Section 39-03.1-11.2 of the North Dakota Century Code is amended and reenacted as follows:

39-03.1-11.2. Internal Revenue Code compliance.

1. The board shall administer the plan in compliance with section 415, section 401(a)(9), section 401(a)(17), and section 401(a)(31) of the Internal Revenue Code in effect on August 1, ~~2007~~ 2009, as it applies for governmental plans.
2. The defined benefit dollar limitation under section 415(b)(1)(A) of the Internal Revenue Code, as approved by the legislative assembly, must be adjusted under section 415(d) of the Internal Revenue Code, effective January first of each year following a regular legislative session. The adjustment of the defined benefit dollar limitation under section 415(d) applies to participating members who have had a separation from employment, but that member's benefit payments may not reflect the adjusted limit prior to January first of the calendar year in which the adjustment applies.
3. If a participating member's benefit is increased by plan amendment after the commencement of benefit payments, the member's annual benefit may not exceed the defined benefit dollar limitation under section 415(b)(1)(A) of the Internal Revenue Code, as adjusted under section 415(d) for the calendar year in which the increased benefit is payable.
4. If a participating member is, or ever has been, a participant in another defined benefit plan maintained by the employer, the sum of the participant's annual benefits from all the plans may not exceed the defined benefit dollar limitation under section 415(b)(1)(A) of the Internal Revenue Code. If the participating member's employer-provided benefits under all such defined benefit plans would exceed the defined benefit dollar limitation, the benefit must be reduced to comply with section 415 of the Internal Revenue Code. This reduction must be made pro rata between the plans, in proportion to the participating member's service in each plan.

SECTION 7. AMENDMENT. Subsection 4 of section 54-52-03 of the North Dakota Century Code is amended and reenacted as follows:

4. Three board members must be elected by and from among the active participating members, members of the retirement plan established under chapter 54-52.6, members of the retirement plan established under chapter 39-03.1, and members of the job service North Dakota retirement plan. Employees who have terminated their employment for whatever reason are not eligible to serve as elected members of the board under this subsection. Board members must be elected to a five-year term pursuant to an election called by the board. Notice of board elections must be given to all active participating members. The

time spent in performing duties as a board member may not be charged against any employee's accumulated annual or any other type of leave.

²¹¹ **SECTION 8.** A new subsection to section 54-52-05 of the North Dakota Century Code is created and enacted as follows:

For compensation earned after August 1, 2009, all employee contributions required under section 54-52-06.1 and the job service North Dakota retirement plan, and not otherwise paid under subsection 3, must be paid by the employer in lieu of contributions by the member. All contributions paid by the employer under this subsection must be treated as employer contributions in determining tax treatment under this code and the Internal Revenue Code. Contributions paid by the employer under this subsection may not be included as gross income of the member in determining tax treatment under this code and the Internal Revenue Code until the contributions are distributed or made available. Contributions paid by the employer in accordance with this subsection must be treated for the purposes of this chapter in the same manner and to the same extent as member contributions made before the date the contributions were assumed by the employer. The employer shall pay these member contributions from the same source of funds used in paying compensation to the employee. The employer shall pay these contributions by effecting an equal cash reduction in the gross salary of the employee. The employer shall continue making payments under this section unless otherwise specifically provided for under the agency's biennial appropriation or by amendment to law.

²¹² **SECTION 9. AMENDMENT.** Subsections 6 and 7 of section 54-52-17 of the North Dakota Century Code are amended and reenacted as follows:

6. If before retiring a member dies after completing three years of eligible employment, except for supreme and district court judges, who must have completed five years of eligible employment, the board shall pay the member's account balance to the member's designated beneficiary as provided in this subsection. If the member has designated an alternate beneficiary with the surviving spouse's written consent, the board shall pay the member's account balance to the named beneficiary. If the member has named more than one primary beneficiary, the board shall pay the member's account balance to the named primary beneficiaries in the percentages designated by the member or, if the member has not designated a percentage for the beneficiaries, in equal percentages. If one or more of the primary beneficiaries has predeceased the member, the board shall pay the predeceased beneficiary's share to the remaining primary beneficiaries. If there are no remaining primary beneficiaries, the board shall pay the member's account balance to the contingent beneficiaries in the same manner. If there are no remaining designated beneficiaries, the board

²¹¹ Section 54-52-05 was also amended by section 2 of House Bill No. 1575, chapter 512.

²¹² Section 54-52-17 was also amended by section 4 of House Bill No. 1575, chapter 512, and section 10 of Senate Bill No. 2153, chapter 514.

shall pay the member's account balance to the member's estate. If the member has not designated an alternate beneficiary or the surviving spouse is the beneficiary, the surviving spouse of the member may select a form of payment as follows:

- a. If the member was a supreme or district court judge, the surviving spouse may select one of the following optional forms of payment:
 - (1) A lump sum payment of the member's retirement account as of the date of death.
 - (2) Payments as calculated for the deceased member as if the member was of normal retirement age at the date of death, payable until the spouse dies.
 - b. The surviving spouse of all other members may select one of the following options:
 - (1) A lump sum payment of the member's retirement account as of the date of death.
 - (2) ~~Payments for sixty months as calculated for the deceased member as if the member was of normal retirement age at the date of death.~~
 - (3) Payment of a monthly retirement benefit equal to fifty percent of the deceased member's accrued single life retirement benefits until the spouse dies.
 - (4) (3) If the member dies on or after the member's normal retirement date, the payment of a monthly retirement benefit equal to an amount that would have been paid to the surviving spouse if the member had retired on the day of the member's death and had selected a one hundred percent joint and survivor annuity, payable until the spouse dies. A surviving spouse who received a benefit under this subsection as of July 31, 1995, is entitled to the higher of that person's existing benefit or the equivalent of the accrued benefit available under the one hundred percent joint and survivor provision as if the deceased member were of normal retirement age, with the increase payable beginning August 1, 1995.
7. If a member not coming under the provisions of subsection 6 terminates employment because of death, permanent and total disability, or any voluntary or involuntary reason prior to retirement, the member or the member's designated beneficiary is entitled to the member's account balance at termination. The board ~~shall~~ automatically shall refund a member's account balance if the member has completed less than three years of eligible employment, has an account balance of less than one thousand dollars, and was not a supreme or district court judge. If the member was a supreme or district court judge, the board ~~shall~~ automatically shall refund a member's account balance if the member completed less than five years of eligible employment. A member may waive the refund if the member submits a written statement to the board,

within thirty days after termination, requesting that the member's account balance remain in the fund.

²¹³ **SECTION 10.** A new subdivision to subsection 9 of section 54-52-17 of the North Dakota Century Code is created and enacted as follows:

An actuarially equivalent graduated benefit option with either a one percent or two percent increase to be applied the first day of January of each year.

SECTION 11. AMENDMENT. Section 54-52-28 of the North Dakota Century Code is amended and reenacted as follows:

54-52-28. Internal Revenue Code compliance.

1. The board shall administer the plan in compliance with section 415, section 401(a)(9), section 401(a)(17), and section 401(a)(31) of the Internal Revenue Code in effect on August 1, ~~2007~~ 2009, as it applies for governmental plans.
2. The defined benefit dollar limitation under section 415(b)(1)(A) of the Internal Revenue Code, as approved by the legislative assembly, must be adjusted under section 415(d) of the Internal Revenue Code, effective January first of each year following a regular legislative session. The adjustment of the defined benefit dollar limitation under section 415(d) applies to participating members who have had a separation from employment, but that member's benefit payments may not reflect the adjusted limit prior to January first of the calendar year in which the adjustment applies.
3. If a participating member's benefit is increased by plan amendment after the commencement of benefit payments, the member's annual benefit may not exceed the defined benefit dollar limitation under section 415(b)(1)(A) of the Internal Revenue Code, as adjusted under section 415(d) for the calendar year in which the increased benefit is payable.
4. If a participating member is, or ever has been, a participant in another defined benefit plan maintained by the employer, the sum of the participant's annual benefits from all the plans may not exceed the defined benefit dollar limitation under section 415(b)(1)(A) of the Internal Revenue Code. If the participating member's employer-provided benefits under all such defined benefit plans would exceed the defined benefit dollar limitation, the benefit must be reduced to comply with section 415 of the Internal Revenue Code. The reduction must be made pro rata between the plans, in proportion to the participating member's service in each plan.

SECTION 12. AMENDMENT. Subsection 7 of section 54-52.1-03 of the North Dakota Century Code is amended and reenacted as follows:

²¹³ Section 54-52-17 was also amended by section 4 of House Bill No. 1575, chapter 512, and section 9 of Senate Bill No. 2153, chapter 514.

7. If the participating employee is a ~~teacher~~ faculty member in a state charitable, penal, or educational institution who receives a salary or wages on a ~~nine-month~~ less than a twelve-month basis and has signed a contract to teach for the next ensuing school year, the agency shall make arrangements to include that employee in the insurance program on a twelve-month basis and make the contribution authorized by this section for each month of the twelve-month period.

SECTION 13. AMENDMENT. Section 54-52.1-03.4 of the North Dakota Century Code is amended and reenacted as follows:

54-52.1-03.4. Participation by employees of certain political subdivisions and temporary employees and employees on unpaid leave of absence. ~~An employee of a county, city, school district, district health unit, or park district that is not participating in the uniform group insurance program pursuant to section 54-52.1-03.4 and is not eligible for any other employee group health plan may elect to participate in the uniform group insurance program by completing the necessary enrollment forms and qualifying under the medical underwriting requirements established by the board. The board may use risk-adjusted premiums for individual insurance contracts to implement the provisions of this section allowing employees of a county, city, school district, district health unit, or park district to participate in the uniform group insurance program. The county, city, school district, district health unit, or park district employee participating in the uniform group insurance program under this section shall pay monthly to the board the premiums in effect for the coverage being provided. A temporary employee employed before August 1, 2007, may elect to participate in the uniform group insurance program by completing the necessary enrollment forms and qualifying under the medical underwriting requirements of the program. A temporary employee employed on or after August 1, 2007, is only eligible to participate in the uniform group insurance program if the employee is employed at least twenty hours per week and at least twenty weeks each year of employment. The temporary employee or the temporary employee's employer shall pay monthly to the board the premiums in effect for the coverage being provided. An employer may pay health or life insurance premiums for a permanent employee on an unpaid leave of absence. A political subdivision, department, board, or agency may make a contribution for coverage under this section.~~

SECTION 14. EFFECTIVE DATE. Sections 2, 5, and 10 of this Act become effective on March 1, 2011.

Approved April 8, 2009
Filed April 9, 2009

CHAPTER 515**HOUSE BILL NO. 1173**

(Representatives Klemin, Kretschmar, Griffin)
(Senators Triplett, Hogue, Fiebiger)

AN ACT to create and enact a new subsection to section 54-52-04 of the North Dakota Century Code, relating to the authority of the public employees retirement system board to create a trust health care savings plan for all supreme and district court judges participating in the public employees retirement system.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new subsection to section 54-52-04 of the North Dakota Century Code is created and enacted as follows:

The board may create and implement an Internal Revenue Code section 115 trust health care savings plan for all supreme and district court judges participating in the public employees retirement system if seventy-five percent of the total active participating supreme and district court judges vote to approve the program. If approved, the contribution level specified in the vote applies to all current and future participating supreme and district court judges and must be paid pursuant to the plan document developed by the board. The contribution level may only be changed by a vote of seventy-five percent of the total active participating supreme and district court judges at that time.

Approved April 16, 2009
Filed April 17, 2009

CHAPTER 516**SENATE BILL NO. 2128**

(Agriculture Committee)

(At the request of the Upper Great Plains Transportation Institute)

AN ACT to amend and reenact section 54-53-02 of the North Dakota Century Code, relating to the membership of the advisory transportation council of the upper great plains transportation institute.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 54-53-02 of the North Dakota Century Code is amended and reenacted as follows:

54-53-02. Advisory transportation council - Composition. There is established a transportation council that shall serve in an advisory capacity to the upper great plains transportation institute. The director of the institute shall serve as the executive secretary of the council. The council shall elect its own chairman. The council membership consists of one representative from and appointed by the following:

1. The ~~greater~~ North Dakota chamber of commerce.
2. The North Dakota public service commission.
3. The North Dakota farm bureau.
4. The North Dakota farmers union.
5. The North Dakota grain growers association.
6. The North Dakota ~~state~~ wheat commission.
7. The North Dakota department of commerce.
8. The North Dakota grain dealers association.
9. The North Dakota motor carriers association.
10. The North Dakota aeronautics commission.
11. The North Dakota department of transportation.
12. The North Dakota department of agriculture ~~commissioner~~.
13. The ~~North Dakota association of~~ associated general contractors of North Dakota.
14. The North Dakota railway industry, appointed by the council.
15. The North Dakota primary sector of manufacturing, appointed by the council.

16. The North Dakota association of counties.
17. The North Dakota league of cities.
18. The lignite energy council.
19. A North Dakota member of the dakota transit association.

Members of the council shall serve without pay, but they may receive reimbursement for actual and necessary expenses incurred in the performance of their duties, if authorized by the director.

The council shall consult with the institute in matters of policy affecting the administration of this chapter and in the development of transportation in the state of North Dakota. The council shall meet at the call of the ~~executive~~ chairman or director or upon the written request of three or more members of the council.

Approved April 22, 2009
Filed April 23, 2009

CHAPTER 517**SENATE BILL NO. 2142**

(Political Subdivisions Committee)

(At the request of the Information Technology Department)

AN ACT to amend and reenact sections 54-59-05, 54-59-08, and 54-59-11 of the North Dakota Century Code, relating to powers and duties of the information technology department, required use of wide area network services, and information technology plans.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

²¹⁴ **SECTION 1. AMENDMENT.** Section 54-59-05 of the North Dakota Century Code is amended and reenacted as follows:

54-59-05. Powers and duties of department. The department:

1. Shall provide, supervise, and regulate information technology of all executive branch state entities, excluding the institutions under the control of the board of higher education.
2. Shall provide network services in a way that ensures the network requirements of a single entity do not adversely affect the functionality of the whole network, facilitates open communications with the citizens of the state, minimizes the state's investment in human resources, accommodates an ever-increasing amount of traffic, supports rapid detection and resolution of problems, protects the network infrastructure from damage and security breaches, provides for the aggregation of data, voice, video, and multimedia into a statewide transport mechanism or backbone, and provides for the network support for the entity to carry out its mission.
3. May review and approve additional network services that are not provided by the department.
4. May purchase, finance the purchase, or lease equipment, software, or implementation services or replace, including by trade or resale, equipment or software as may be necessary to carry out this chapter. An agreement to finance the purchase of software, equipment, or implementation services may not exceed a period of five years. The department shall submit any intended financing proposal for the purchase of software, equipment, or implementation services under this subsection, which is in excess of one million dollars, to the budget section of the legislative council or the legislative assembly before executing a financing agreement. If the budget section or the legislative assembly does not approve the execution of a financing agreement, the

²¹⁴ Section 54-59-05 was also amended by section 98 of House Bill No. 1436, chapter 482.

department may not proceed with the proposed financing arrangement. The department may finance the purchase of software, equipment, or implementation services only to the extent the purchase amount does not exceed seven and one-half percent of the amount appropriated to the department during that biennium.

5. Shall review requests for lease, purchase, or other contractual acquisition of information technology as required by this subsection. Each executive branch agency or institution, excluding the institutions under the control of the board of higher education, shall submit to the department, in accordance with guidelines established by the department, a written request for the lease, purchase, or other contractual acquisition of information technology. The department shall review requests for conformance with the requesting entity's information technology plan and compliance with statewide policies and standards. If the request is not in conformance or compliance, the department may disapprove the request or require justification for the departure from the plan or statewide policy or standard.
6. Shall provide information technology, including assistance and advisory service, to the executive, legislative, and judicial branches. If the department is unable to fulfill a request for service from the legislative or judicial branch, the information technology may be procured by the legislative or judicial branch within the limits of legislative appropriations.
7. Shall request and review information, including project startup information summarizing the project description, project objectives, business need or problem, cost-benefit analysis, and project risks and a project closeout information summarizing the project objectives achieved, project budget and schedule variances, and lessons learned, regarding any major information technology project of an executive branch agency; ~~the state board of higher education, or any institution under the control of the state board of higher education as provided in section 54-35-15.2.~~ The department shall present the information to the information technology committee on request of the committee.
8. May request and review information regarding any information technology project of an executive branch agency with a total cost of between one hundred thousand and two hundred fifty thousand dollars as determined necessary by the department. The department shall present the information to the information technology committee on request of the committee.
9. Shall study emerging technology and evaluate its impact on the state's system of information technology.
10. Shall develop guidelines for reports to be provided by each agency of the executive, legislative, and judicial branches, excluding the institutions under the control of the board of higher education, on information technology in those entities.
11. Shall collaborate with the state board of higher education on guidelines for reports to be provided by institutions under control of the state board of higher education on information technology in those entities.

12. ~~Shall review the information technology management of executive branch agencies or institutions.~~
43. Shall perform all other duties necessary to carry out this chapter.
44. 13. May provide wide area network services to a state agency, city, county, school district, or other political subdivision of this state. The information technology department may not provide wide area network service to any private, charitable, or nonprofit entity except the information technology department may continue to provide the wide area network service the department provided to the private, charitable, and nonprofit entities receiving services from the department on January 1, 2003. ~~The department shall file with the state auditor before September 1, 2003, a description of the wide area network service the department provided to each private, charitable, and nonprofit entity receiving services from the department on January 1, 2003.~~
45. 14. Shall assure proper measures for security, firewalls, and internet protocol addressing at the state's interface with other facilities.
46. 15. Notwithstanding subsection 44 13, may provide wide area network services for a period not to exceed four years to an occupant of a technology park associated with an institution of higher education or to a business located in a business incubator associated with an institution of higher education.

SECTION 2. AMENDMENT. Section 54-59-08 of the North Dakota Century Code is amended and reenacted as follows:

54-59-08. Required use of wide area network services. Each state agency and institution that desires access to wide area network services and each county, city, and school district that desires access to wide area network services to transmit voice, data, or video outside that county, city, or school district shall obtain those services from the department. The chief information officer may exempt from the application of this section a county, city, or school district that demonstrates its current wide area network services are more cost-effective for or more appropriate for the specific needs of that county, city, or school district than wide area network services available from the department. ~~The chief information officer shall exempt from the application of this section a county, city, or school district that is under contract to receive wide area network services from an entity other than the department, for the term of that contract, but that political subdivision may not extend or renew that contract beyond July 31, 2001.~~

²¹⁵ **SECTION 3. AMENDMENT.** Section 54-59-11 of the North Dakota Century Code is amended and reenacted as follows:

54-59-11. Information technology plans. Each executive branch state agency or institution, excluding the institutions under the control of the board of higher education, unless the chief information officer grants an exemption, shall ~~prepare an~~ participate in the information technology plan, ~~subject to acceptance~~

²¹⁵ Section 54-59-11 was also amended by section 86 of House Bill No. 1436, chapter 482.

planning process based on guidelines developed by the department. The plan must be submitted to the department by ~~July~~ August fifteenth of each even-numbered year unless the chief information officer grants an extension. The plan must be prepared based on guidelines developed by the department; must provide the information technology goals, objectives, and activities of the entity for the current biennium and the next two bienniums; and must include an asset management plan relating to the inventory of information technology assets owned, leased, or employed by the entity. Each entity required to file a plan shall provide interim updates to its plan if major information technology changes occur which affect its plan. The department shall review each entity's plan for compliance with statewide information technology policies and standards and may require an entity to change its plan to comply with statewide policies or standards or to resolve conflicting directions among plans. Agencies of the judicial and legislative branches shall file their information technology plans with the department by ~~July~~ August fifteenth of each even-numbered year. Each entity required to file a plan shall prepare its budget request for the next biennium based on its information technology plan. The agency's budget request and the governor's budget recommendation must include supporting information describing in detail how the information technology plan relates to the budget request and recommendation. Any budget adjustment by the budget office must include the corresponding change to the plan. Based on the plans, the department shall prepare a statewide information technology plan and distribute copies of that plan to members of the legislative assembly as requested by the legislative council or its designee. The statewide information technology plan must be developed with emphasis on long-term strategic goals, objectives, and accomplishments. The statewide information technology plan must contain:

1. A list of major projects started, ongoing, and completed during the biennium, including related budgeted and actual costs and the estimated implementation date for each project as well as the actual implementation date for completed projects.
2. Information regarding evaluations of cost-benefit analyses for completed projects.
3. Information regarding the information technology plans, including the department's plan review process, the number of plans reviewed, and the number of plans accepted.
4. A description of the benefits to the state resulting from its investment in information technology.

Approved April 8, 2009
Filed April 9, 2009

CHAPTER 518**SENATE BILL NO. 2041**
(Legislative Council)
(Information Technology Committee)

AN ACT to amend and reenact section 54-59-21 of the North Dakota Century Code, relating to the criminal justice information sharing board.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 54-59-21 of the North Dakota Century Code is amended and reenacted as follows:

54-59-21. Criminal justice information sharing board - Membership - Duties and powers - Director - Exempt records.

1. The criminal justice information sharing board consists of ~~the~~
 - a. The chief justice of the supreme court or the chief justice's designee; ~~the~~
 - b. The attorney general or the attorney general's designee; ~~and the~~
 - c. The chief information officer of the state.
 - d. The director of the department of emergency services or the director's designee.
 - e. The director of the department of corrections and rehabilitation or the director's designee.
 - f. The superintendent of the state highway patrol or the superintendent's designee.
 - g. The chief of the bureau of criminal investigation.
 - h. The director of the department of transportation or the director's designee.
 - i. A representative of a city police department, appointed by the governor from a list of two or more nominees from the North Dakota chiefs of police association.
 - j. A representative of a county sheriff's office, appointed by the governor from a list of two or more nominees from the North Dakota sheriffs and deputies association.
 - k. A state's attorney, appointed by the governor from a list of two or more nominees from the North Dakota state's attorneys association.
 - l. One at-large member appointed by the governor.

- ~~2.~~ 2. The chief information officer is chairman of the board. Board members who are not permanent full-time state employees are entitled to compensation of seventy-five dollars per day and mileage and expenses as provided by law for state employees to be paid by the information technology department. A state employee who is a board member must receive that employee's regular salary and is entitled to mileage and expenses, to be paid by the employing agency. Board members who are appointed by the governor under this section serve for a term of three years.
- ~~3.~~ 3. The information technology department, at the direction of the board, shall maintain a criminal justice data information sharing system to facilitate the exchange of criminal justice information among judicial, law enforcement, and emergency personnel. Only a criminal justice agency, as defined in section 12-60-16.1, and any other person designated by the board may access the system. The system only may be accessed for the purposes set forth by the board. Any law enforcement record in the possession of the department is an exempt record.
- ~~3.~~ 4. The board may appoint and employ a director who serves at the pleasure of and under the direct supervision of the board. The information technology department shall provide staff and other necessary support to the board. The board or director may acquire support staff and employ personnel who are under the direct supervision of the director and the board.
4. 5. The board shall set policy and adopt rules relating to the access to and the collection, storage, and sharing of criminal justice information and the systems necessary to perform those functions. The board shall provide operational oversight for criminal justice information sharing activities and shall approve and provide oversight of criminal justice information sharing budgets. The board may appoint ~~an executive committee and an advisory committee that would serve in an advisory capacity to the board~~ such committees as it deems necessary.
- ~~5.~~ 6. The director may contract with the bureau of criminal investigation for the processing of federal fingerprint identification.

Approved April 22, 2009
Filed April 23, 2009

CHAPTER 519**SENATE BILL NO. 2332**

(Senators J. Lee, Robinson)
(Representatives Kaldor, Weisz)

AN ACT to create and enact two new sections to chapter 6-09 and three new sections to chapter 54-59 of the North Dakota Century Code, relating to Bank of North Dakota loan funds for health information technology, the creation of a health information technology advisory committee and a health information technology office, and to health information exchange grants; to repeal section 23-01-31 of the North Dakota Century Code, relating to the North Dakota health information technology steering committee; to provide an appropriation; to provide for transfers; to provide for a report to the budget section and the legislative council; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 6-09 of the North Dakota Century Code is created and enacted as follows:

Health information technology loan fund - Appropriation.

1. The health information technology loan fund is established in the Bank for the purpose of providing loans to health care providers to purchase and upgrade electronic health record technology, train personnel in its use, improve security of information exchange, and for other purposes as established by the health information technology office, in collaboration with the health information technology advisory committee. This fund is a revolving loan fund. All moneys transferred into the fund, interest upon moneys in the fund, and collections of interest and principal on loans made from the fund are appropriated for disbursement according to this section.
2. The Bank shall make loans from this fund to health care providers as approved by the health information technology office director, in collaboration with the health information technology advisory committee, in accordance with the criteria established by the health information technology office director under section 4 of this Act. A loan made under this fund must be repayable over a period that may not exceed ten years.
3. The Bank shall administer the health information technology loan fund. Funds in the loan fund may be used for loans as provided under this section and the costs of administration of the fund. Annually, the Bank may deduct a service fee for administering the revolving loan fund maintained under this section.
4. An application for a loan under this section must be made to the health information technology office. The health information technology office director, in collaboration with the health information technology advisory committee, may approve the application of a qualified applicant that meets the criteria established by the health information technology office

director. The health information technology office shall forward approved applications to the Bank. Upon approval of the application by the Bank, the Bank shall make the loan from the revolving loan fund as provided under this section.

5. The Bank may do all acts necessary to negotiate loans and preserve security as deemed necessary, to exercise any right of redemption, and to bring suit in order to collect interest and principal due the revolving loan fund under mortgages, contracts, and notes executed to obtain loans under this section. If the applicant's plan for financing provides for a loan of funds from sources other than the state of North Dakota, the Bank may take a subordinate security interest. The Bank may recover from the revolving loan fund amounts actually expended by the Bank for legal fees and to effect a redemption.

SECTION 2. A new section to chapter 6-09 of the North Dakota Century Code is created and enacted as follows:

Health information technology planning loan fund - Appropriation.

1. The health information technology planning loan fund is established in the Bank for the purpose of providing low-interest loans to health care entities to assist those entities in improving health information technology infrastructure. This fund is a revolving loan fund. All moneys transferred into the fund, interest upon moneys in the fund, and collections of interest and principal on loans made from the fund are appropriated for disbursement according to this section.
2. The Bank shall make loans from this fund to health care entities as approved by the health information technology office director, in collaboration with the health information technology advisory committee, in accordance with the criteria established by the health information technology director under section 4 of this Act.
3. The Bank shall administer the health information technology planning loan fund. Funds in the loan fund may be used for loans as provided under this section and the costs of administration of the fund. Annually, the Bank may deduct a service fee for administering the revolving loan fund maintained under this section.
4. An application for a loan under this section must be made to the health information technology office. The health information technology office director, in collaboration with the health information technology advisory committee, may approve the application of a qualified applicant that meets the criteria established by the health information technology office director. The health information technology office shall forward approved applications to the Bank. Upon approval of the application by the Bank, the Bank shall make the loan from the revolving loan fund as provided under this section.
5. The Bank may do all acts necessary to negotiate loans and preserve security as deemed necessary, to exercise any right of redemption, and to bring suit in order to collect interest and principal due the revolving loan fund under mortgages, contracts, and notes executed to obtain loans under this section. If the applicant's plan for financing provides for a loan of funds from sources other than the state of North Dakota, the

Bank may make a loan subordinate security interest. The Bank may recover from the revolving loan fund amounts actually expended by the Bank for legal fees and to effect a redemption.

SECTION 3. A new section to chapter 54-59 of the North Dakota Century Code is created and enacted as follows:

Health information technology advisory committee - Duties.

1. The health information technology advisory committee consists of the state chief information officer or the chief information officer's designee, the state health officer or the state health officer's designee, the governor or the governor's designee, the executive director of the department of human services or the executive director's designee, and individuals appointed by the governor and the state health officer to represent a broad range of public and private health information technology stakeholders.
2. The health information technology advisory committee shall collaborate with and make recommendations to the health information technology office, as provided under sections 1, 2, 4, and 5 of this Act.
3. As requested by the health information technology advisory committee, the department shall provide or arrange for administrative services to assist the health information technology advisory committee.
4. The health information technology advisory committee may employ an executive director who serves at the pleasure of and under the direct supervision of the health information technology advisory committee. The executive director may employ personnel as necessary for the administration of this section.

SECTION 4. A new section to chapter 54-59 of the North Dakota Century Code is created and enacted as follows:

Health information technology office - Duties - Loan and grant programs.

1. The health information technology office is created in the department. The health information technology advisory committee shall make recommendations to the health information technology office for implementing a statewide interoperable health information infrastructure that is consistent with emerging national standards; promote the adoption and use of electronic health records and other health information technologies; and promote interoperability of health information systems for the purpose of improving health care quality, patient safety, and the overall efficiency of health care and public health services.
2. The health information technology office director, in collaboration with the health information technology advisory committee, shall:
 - a. Apply for federal funds that may be available to assist the state and health care providers in implementing and improving health information technology.

- b. Establish a health information technology loan program to provide loans to health care providers for the purpose of purchasing and upgrading certified electronic health record technology, training personnel in the use of such technology, and improving the secure electronic exchange of health information, and for any other purpose under section 1 of this Act.
- c. Establish a health information technology planning loan program to provide low-interest loans to health care entities to assist those entities in improving their health information technology infrastructure under section 2 of this Act.
- d. Facilitate and expand electronic health information exchange in the state, directly or by awarding grants.
- e. Establish an application process and eligibility criteria for and accept and process applications for loans and grants under subdivisions b, c, and d. The eligibility criteria must be consistent with federal requirements associated with federal funds received under subdivision a. The eligibility criteria for loans under subdivision c must include a requirement that the recipient's approved health information technology be strategically aligned with the state's health information technology plan and the associated federal standards and that the recipient has passed an onsite electronic medical record readiness assessment conducted by an assessment team determined by the health information technology advisory committee and the health information technology office director.

SECTION 5. A new section to chapter 54-59 of the North Dakota Century Code is created and enacted as follows:

Health information technology office - Electronic health information exchange fund.

1. There is created an electronic health information exchange fund. The fund consists of moneys deposited in the fund from federal or other sources or moneys transferred into the fund as directed by the legislative assembly. The health information technology office shall administer this fund and shall distribute moneys in the fund accordingly. The moneys in the fund must be used to facilitate and expand electronic health information exchange. Moneys in the fund may be used, subject to legislative appropriations, to provide services directly, for grants as provided under this section, and for the costs of administration of the fund.
2. A grant applicant shall submit an application to the health information technology office, which shall determine the applicant's eligibility based upon criteria established by the health information technology office director in collaboration with the health information technology advisory committee.
3. This section does not create an entitlement to any funds available for grants under this section. The health information technology office may award these grants to the extent funds are available and, within the office's discretion, to the extent such applications are approved.

SECTION 6. REPEAL. Section 23-01-31 of the North Dakota Century Code is repealed.

SECTION 7. HEALTH INFORMATION TECHNOLOGY OFFICE AND HEALTH INFORMATION TECHNOLOGY ADVISORY COMMITTEE - REPORT TO LEGISLATIVE COUNCIL AND BUDGET SECTION. During the 2009-10 interim, the health information technology office and health information technology advisory committee shall provide periodic reports to the legislative council and the budget section on the status of health information technology activities.

SECTION 8. BANK OF NORTH DAKOTA TRANSFERS. The industrial commission shall transfer, during the period beginning with the effective date of this Act and ending June 30, 2011, as requested by the health information technology office director, up to \$8,000,000 from the current earnings and the accumulated undivided profits of the Bank of North Dakota to the health information technology loan fund to meet any required match for federal funds or to the electronic health information exchange fund to meet any required match for federal funds or as directed, a portion to both funds to meet any required match for federal funds. The health information technology office director shall request fund transfers from the Bank only as necessary to comply with federal requirements and to meet cash flow needs of the funds.

SECTION 9. CONTINGENT BANK OF NORTH DAKOTA TRANSFER. If actual general fund revenues for the period July 1, 2009, through September 30, 2009, exceed estimated general fund revenues for that period by at least \$22,500,000, as determined by the office of management and budget, based on the legislative estimates made at the close of the 2009 legislative session and upon certification by the health information technology office director to the director of the office of management and budget of a demonstrated need for health information technology planning loans, the industrial commission shall transfer, as requested by the health information technology office director, up to \$5,000,000 from the current earnings and the accumulated undivided profits of the Bank of North Dakota to the health information technology planning loan fund, for the biennium beginning July 1, 2009, and ending June 30, 2011. The health information technology office director shall request transfers from the Bank only as necessary to meet cash flow needs of the fund.

SECTION 10. APPROPRIATION. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$350,000, or so much of the sum as may be necessary, to the information technology department for the purpose of defraying the costs of the health information technology advisory committee and the health information technology office, for the period beginning with the effective date of this Act and ending June 30, 2011.

SECTION 11. APPROPRIATION. There is appropriated out of any moneys in the electronic health information exchange fund, not otherwise appropriated, the sum of \$88,000,000, or so much of the sum as may be necessary, including up to \$80,000,000 of federal funds deposited in the fund from the federal American Recovery and Reinvestment Act of 2009 to the information technology department for the purposes established under section 5 of this Act, for the period beginning with the effective date of this Act and ending June 30, 2011.

SECTION 12. EMERGENCY. This Act is declared to be an emergency measure.

Approved May 7, 2009
Filed May 19, 2009

CHAPTER 520**HOUSE BILL NO. 1146**

(Representative DeKrey)
(Senator Lyson)

AN ACT to amend and reenact subsection 1 of section 54-61-01 and section 54-61-04 of the North Dakota Century Code, relating to the commission on legal counsel for indigents.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

²¹⁶ **SECTION 1. AMENDMENT.** Subsection 1 of section 54-61-01 of the North Dakota Century Code is amended and reenacted as follows:

1. The commission on legal counsel for indigents is established for the purpose of developing and monitoring a process for the delivery of state-funded legal counsel services for indigents which are required under the Constitution of North Dakota and the United States Constitution and any applicable statute or court rule. The commission shall provide indigent defense services for ~~those~~ indigent individuals determined by the court to be eligible for and in need of those services pursuant to the standards and policies of the commission governing eligibility for such services.

SECTION 2. AMENDMENT. Section 54-61-04 of the North Dakota Century Code is amended and reenacted as follows:

54-61-04. Records, files, and information - Accessibility - Confidentiality.

Any file, record, or information regarding representation of a ~~defendant party~~ defendant party under sections 54-61-01 through 54-61-03 which are attorney work-product or otherwise subject to any attorney-client privilege are confidential and may not be disclosed except in accordance with a court order or in response to applicable discovery rules. All other case-related records are exempt from disclosure except as otherwise provided in rules adopted by the commission. Information or records obtained by the commission relating to allegations of misconduct by an attorney in the employ of, or providing indigent services for, the commission are exempt from disclosure except as otherwise provided in rules adopted by the commission unless and until the matter is referred for formal disposition under rules adopted by the supreme court.

Approved March 5, 2009
Filed March 5, 2009

²¹⁶ Section 54-61-01 was also amended by section 97 of House Bill No. 1436, chapter 482.

CHAPTER 521**SENATE BILL NO. 2129**

(Agriculture Committee)

(At the request of the Industrial Commission)

AN ACT to create and enact a new section to chapter 54-63 of the North Dakota Century Code, relating to definitions; to amend and reenact subsection 5 of section 54-44.4-02, subsection 2 of section 54-60.1-01, and sections 54-63-01 and 54-63-03 of the North Dakota Century Code, relating to the renewable energy program; and to repeal sections 54-17-38 and 54-17-39 of the North Dakota Century Code, relating to the biomass incentive and research program.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 5 of section 54-44.4-02 of the North Dakota Century Code is amended and reenacted as follows:

5. Procurements ~~through a contract or other instrument executed~~ by the industrial commission for energy-related programs under chapters 17-05, 54-17.5, 54-17.6, ~~and 54-17.7,~~ and 54-63 and under those statutes in title 38 authorizing the industrial commission to perform well and hole pluggings, reclamation work, equipment removal, leak prevention, and similar work.

²¹⁷ **SECTION 2. AMENDMENT.** Subsection 2 of section 54-60.1-01 of the North Dakota Century Code is amended and reenacted as follows:

2. "Business incentive" means a state or political subdivision direct cash transfer, loan, or equity investment; contribution of property or infrastructure; reduction or deferral of any tax or any fee; guarantee of any payment under any loan, lease, or other obligation; or preferential use of government facilities given to a business. To be considered a business incentive, the total assistance in all forms must be valued at twenty-five thousand dollars or more committed within a year. Unless specifically provided otherwise, the term does not include:
 - a. Assistance that is generally available to all businesses or to a general class of similar businesses, such as a line of business, size, or similar criteria.
 - b. Incentives resulting from Bank of North Dakota programs unless the incentive is a direct interest rate buydown or is an investment made pursuant to the North Dakota alternative and venture capital investments and early-stage capital funds program.

²¹⁷ Section 54-60.1-01 was also amended by section 4 of House Bill No. 1202, chapter 109.

- c. Public improvements to buildings or lands owned by the state or political subdivision which serve a public purpose and do not principally benefit a single business or defined group of businesses at the time the improvements are made.
- d. Assistance provided for the sole purpose of renovating old or decaying building stock or bringing such building stock up to code and assistance provided for designated historic preservation districts, provided that the assistance does not exceed seventy-five percent of the total cost.
- e. Assistance to provide job-readiness and training services if the sole purpose of the assistance is to provide those services.
- f. Assistance for housing.
- g. Assistance for pollution control or abatement.
- h. Assistance for energy conservation.
- i. Tax reductions resulting from conformity with federal tax law.
- j. Benefits derived from regulation.
- k. Indirect benefits derived from assistance to educational institutions.
- l. Assistance for a collaboration between a North Dakota institution of higher education and a business.
- m. Redevelopment if the recipient's investment in the purchase of the site and in site preparation is seventy percent or more of the assessor's current year's estimated market value.
- n. General changes in tax increment financing law and other general tax law changes of a principally technical nature.
- o. Federal assistance provided through the state or a political subdivision until the assistance has been repaid to, and reinvested by, the state or political subdivision.
- p. Federal or state assistance for the lignite research, development, and marketing program under chapter 54-17.5.
- q. Federal or state assistance for the oil and gas research, development, and marketing program under chapter 54-17.6.
- r. Federal or state assistance for the renewable energy program under chapter 54-63.

SECTION 3. A new section to chapter 54-63 of the North Dakota Century Code is created and enacted as follows:

Definitions. As used in this chapter, "advanced biofuel" means fuel derived from renewable biomass and includes:

1. Biofuel derived from cellulose, hemicellulose, or lignin;

2. Biofuel derived from sugar and starch other than ethanol derived from corn kernel starch;
3. Biofuel derived from waste material, including crop residue, other vegetative waste material, animal waste, food waste, and yard waste;
4. Diesel-equivalent fuel derived from renewable biomass, including vegetable oil and animal fat;
5. Biogas, including landfill gas and sewage waste treatment gas, produced through the conversion of organic matter from renewable biomass;
6. Butanol or other alcohols produced through the conversion of organic matter from renewable biomass; and
7. Other fuel derived from cellulosic biomass.

SECTION 4. AMENDMENT. Section 54-63-01 of the North Dakota Century Code is amended and reenacted as follows:

54-63-01. Renewable energy council - Composition. The industrial commission shall consult with the renewable energy council in matters of policy affecting the administration of the renewable energy development fund.

1. The renewable energy council consists of:
 - a. The commissioner of commerce or the commissioner's designee.
 - b. A member with a substantial interest in the agriculture industry appointed by the governor.
 - c. A member with a substantial interest in the biodiesel industry appointed by the governor representing biodiesel interests.
 - d. A member with a substantial interest in the biomass industry appointed by the governor representing biomass interests.
 - e. A member with a substantial interest in the wind industry appointed by the governor representing wind interests.
 - f. A member with a substantial interest in the ethanol industry appointed by the governor representing ethanol interests.
 - g. A member with a substantial interest in advanced biofuel and sugar-based biofuel, appointed by the governor.
2. Subject to subsection 6, the terms of office for members of the council are three years but of those first appointed, two serve for one year, two serve for two years, and ~~three~~ two serve for three years.
3. The commissioner of commerce shall serve as chairman.
4. The council shall have at least one regular meeting each year and such additional meetings as the chairman determines necessary at a time and place to be fixed by the chairman. Special meetings must be called

by the chairman on written request of any three members. Four members constitute a quorum.

5. The council shall recommend to the industrial commission the approval of grants, loans, or other financial assistance necessary or appropriate for funding, research, development, marketing, and educational projects or activities and any other matters related to this chapter. ~~Any grants, loans, or other financial assistance must be matched on a dollar-for-dollar basis.~~
6. Members of the council serve at the pleasure of the governor.

SECTION 5. AMENDMENT. Section 54-63-03 of the North Dakota Century Code is amended and reenacted as follows:

54-63-03. Industrial commission powers.

1. The industrial commission may:
 - a. Make grants or loans, and provide other forms of financial assistance as necessary or appropriate, to qualified persons for funding research, development, marketing, and educational projects or activities, feasibility studies, applied research and demonstrations, venture capital investments, ~~grants and matching grants~~, and low-interest loans and loan buydowns to foster the development of renewable energy, including wind, biofuels, biomass, solar, hydroelectric, geothermal, and hydrogen, that is produced from the foregoing renewable energy sources. Any financial assistance that the commission awards to a project must not be the project's sole support. Any financial assistance the commission awards must be conditioned on the assurance that the applicant or a third party will support the project by either monetary or nonmonetary means. The amount of this additional support is at the commission's discretion.
 - b. Provide incentives for multifeed facilities to process corn ethanol, cellulosic ethanol, canola biodiesel, and soy biodiesel.
 - c. Provide incentives for scaleable technologies.
 - d. Provide incentives to increase ~~efficiencies such as~~ research and utilization of renewable energy coproduct utilization for livestock feed, human food products, and industrial use technologies.
 - e. Execute contracts and all other instruments necessary or convenient for the performance of its powers and functions under this chapter.
 - f. Accept aid, grants, or contributions of money or other things of value from any source, to be held, used, and applied to carry out this chapter, subject to the conditions upon which the aid, grants, or contributions are made, including aid, grants, or contributions from any department, agency, or instrumentality of the United States for any purpose consistent with this chapter.

- g. Establish interest buydown programs for equipment needed for production, harvest, storage, and transport under the special private lands open to sportsmen pilot program for native grass stands.
 - h. Fund technical assistance from the university system and private entities to producers.
 - i. Establish incentive programs that have as their purpose demonstrating to the agriculture community the commercial feasibility of producing, harvesting, storing, and delivering biomass feedstock. The program may include providing funds to producers of perennial biomass crops, including native grasses, so that such producers have an income during the time needed for these plants to mature and become ready for harvest.
 - j. Provide incentives to support research and demonstration projects and obtain matching grants for projects involving advanced biofuels and sugar-based biofuels.
2. The industrial commission shall contract with the department of commerce to provide technical assistance to the renewable energy council and the industrial commission to carry out and effectuate the purposes of this chapter, including pursuit of aid, grants, or contributions of money or other things of value from any source for any purpose consistent with this chapter. The department may contract with a public or private third party to provide any or all of the technical assistance necessary to implement the purposes of this chapter.

SECTION 6. REPEAL. Sections 54-17-38 and 54-17-39 of the North Dakota Century Code are repealed.

Approved April 22, 2009
Filed April 23, 2009

CHAPTER 522**SENATE BILL NO. 2260**
(Senators Schneider, Erbele, Hogue)
(Representatives Kilichowski, Pietsch)

AN ACT to create and enact a new chapter to title 54 of the North Dakota Century Code, relating to state matching funds for individual development accounts; to amend and reenact subdivision n of subsection 1 of section 50-09-29 of the North Dakota Century Code, relating to administration of the temporary assistance for needy families program; and to provide an appropriation.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

²¹⁸ **SECTION 1. AMENDMENT.** Subdivision n of subsection 1 of section 50-09-29 of the North Dakota Century Code is amended and reenacted as follows:

- n. ~~Consider exempting funds in~~ Exempt from assets and income the savings and proportionate matching funds in individual development accounts;

SECTION 2. A new chapter to title 54 of the North Dakota Century Code is created and enacted as follows:

Definitions. In this chapter, unless the context otherwise requires:

1. "Community action agency" has the meaning as provided in section 54-44.5-01.
2. "Division" means the department of commerce division of community services.
3. "Eligible educational institution" means a division-approved institution of higher education or approved area vocational education school.
4. "Household" means all individuals who share use of a dwelling unit as primary quarters for living and eating separate from other individuals.
5. "Individual development account" means a matched savings account opened by a household participating in the North Dakota individual development account program.
6. "Permissible use" means any of the following:
 - a. Tuition at an eligible educational institution and expenses at an eligible educational institution, including books, eligible supplies, and equipment required for courses of instruction.

²¹⁸ Section 50-09-29 was also amended by section 35 of House Bill No. 1436, chapter 482.

- b. For first-time home buyers, acquisition costs of acquiring or constructing a principal residence, including any usual or reasonable settlement, financing, or other closing costs. As used in this subdivision, acquisition costs of a principal residence has the same meaning as under section 1034 of the Internal Revenue Code of 1986 which do not exceed one hundred twenty percent of the average area purchase price applicable to the residence determined according to section 143(e)(2) and (3) of the Internal Revenue Code of 1986.
- c. Business capitalization expenses for expenditures on capital, plant, equipment, working capital, and inventory expenses of a legitimate business pursuant to a business plan approved by a community action agency.

Funds awarded. The division shall allocate state funds to participating community action agencies to provide matching funds for eligible individual development accounts. The division shall allocate funds to achieve geographic balance in the eight regions served by this program. The division shall document the capacity of participating community action agencies to manage the program and to raise the private match.

Community action agency duties. In order to be eligible to participate in this program, a community action agency shall:

1. Provide a separate account for the immediate deposit of program funds;
2. Establish a process to select participants and describe any priorities for participation;
3. Enter an individual development account agreement with the household to establish the terms of participation;
4. Provide households with economic literacy education;
5. Provide households with asset-specific education;
6. Provide matching deposits for participating household;
7. Coordinate with other related public and private programs; and
8. Establish a process to appeal and mediate disputes.

Household eligibility - Participation. To be eligible for matching funds under this chapter, a household:

1. Shall sign an individual development account agreement that includes the amount of scheduled deposits into the household's individual development account, the proposed use of the funds, and the proposed savings goal;
2. Shall agree to complete an economic literacy training program and asset-specific training; and
3. At the time of application, must have an income that does not exceed two hundred percent of the federal poverty line.

Withdrawal - Matching - Permissible uses.

1. To receive a match, a participating household must transfer funds withdrawn from the household's individual development account to the household's matching fund custodial account held by the community action agency, according to the individual development account agreement. The community action agency shall determine if the participating household's match request is for a permissible use consistent with the household's individual development account agreement.
2. At least quarterly and at the time of an approved withdrawal, the community action agency shall ensure the household's custodial account contains the applicable matching funds to match the balance in the household's individual development account, not including interest.
3. Matches must be provided as follows:
 - a. From matching funding provided under this chapter, a matching contribution of no more than one dollar for every one dollar of funds withdrawn from the household's individual development account, not to exceed a lifetime limit of two thousand dollars; and
 - b. From nonstate funds, a matching contribution of no less than one dollar for every one dollar of funds withdrawn from the household's individual development account, not to exceed a lifetime limit of two thousand dollars.
4. Upon receipt of transferred custodial account funds, the community action agency shall make a direct payment to the vendor of the goods or services for the permissible use.

Consideration for assistance programs. A state-administered, means-tested program may not adversely consider a household's individual development account savings and matching funds in determining eligibility for the program.

Program reporting. Quarterly, the fiscal agent on behalf of each community action agency participating in a North Dakota individual development account under this chapter shall report to the division, identifying the participants with accounts; the number of accounts; the amount of savings and matches for each participant's account; the uses of the account; and the number of businesses, homes, and educational services paid for with money from the account, as well as other information that may be required for the division to administer the program.

SECTION 3. APPROPRIATION. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$125,000, or so much of the sum as may be necessary, to the department of commerce division of community services for the purpose of providing matching funds under section 2 of this Act, for the biennium beginning July 1, 2009, and ending June 30, 2011.

Approved April 30, 2009
Filed May 1, 2009